

The Biden Administration's First Student Loan Debt Relief Proposed Rule

April 22, 2024

On April 17, 2024, Secretary of Education Miguel Cardona (the Secretary) published in the *Federal Register* a [Notice of Proposed Rulemaking](#) (NPRM), describing when the Secretary may waive all or part of a borrower's outstanding federal student loan debt pursuant to [Section 432\(a\)\(6\) of the Higher Education Act \(HEA\)](#). That provision authorizes the Secretary to “enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired” under the [Federal Family Education Loan program \(FFELP\)](#). The Department of Education (ED) has argued this provision also applies to the [Direct Loan program](#)—the primary federal student loan program—and the [Health Education Assistance Loan \(HEAL\) program](#). The NPRM results from negotiated rulemaking that occurred between [October 2023 and February 2024](#). It is the [first of two](#) proposed rules deriving from the student loan debt relief negotiated rulemaking that ED intends to issue “[to address the burden of Federal student loan debt](#).”

The NPRM follows an [earlier effort by the Secretary to provide student loan debt relief](#). On August 24, 2022, the Secretary announced he would invoke the [HEROES Act of 2003](#) to cancel up to \$20,000 in qualifying borrowers' federal student loans to “[address the financial harms](#)” of the COVID-19 pandemic. In June 2023, the Supreme Court [ruled](#) that policy exceeded the Secretary's statutory authority, thus precluding ED from cancelling any loan balances under that policy.

The NPRM is distinct from the HEROES Act policy. The NPRM relies on a different statutory authority, would use different criteria to qualify borrowers for relief, and would provide different waiver amounts. This Insight summarizes the NPRM and describes next steps in the rulemaking process.

Proposed Loan Waivers

Approximately [\\$1.6 trillion in federal student loans](#), borrowed by more than 43 million individuals, is outstanding. In summary form, under the NPRM, the Secretary generally proposes to “waive” the following [for ED-held loans](#) under the FFELP, Direct Loan program, [Perkins Loan program](#), and HEAL program:

1. The amount by which each of a borrower's loans has an outstanding balance that generally exceeds the amount the borrower owed when the loan entered repayment

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IN12350

- (balance growth), [for borrowers who are enrolled in an income-driven repayment \(IDR\) plan](#), and whose annual income is less than or equal to \$120,000 (for individuals or married borrowers who file federal income taxes separately), \$180,000 (for individuals filing as a head of household), or \$240,000 (for married couples filing jointly).
2. The lesser of \$20,000 or the amount by which each of a borrower's loans has an outstanding balance that generally [exceeds the amount the borrower owed when their loan entered repayment](#). Individuals who received relief under the first waiver proposal above would not be eligible for this waiver.
 3. The outstanding balance of loans that [first entered repayment on or before July 1, 2005](#) (if a borrower is repaying *only* loans received for undergraduate study) or on or before July 1, 2000 (if a borrower has *any* loans for graduate study).
 4. The outstanding balance of a borrower's loan, if the Secretary determines that the borrower is not enrolled in but [otherwise meets the eligibility requirements for forgiveness under an IDR plan](#) or an alternative repayment plan.
 5. The outstanding balance of a borrower's loan, if the Secretary determines that the borrower has not obtained, but [otherwise meets the eligibility requirements for, "any loan discharge, cancellation, or forgiveness opportunity"](#) under the FFELP or Direct Loan program. Such opportunities include, for example, [Public Service Loan Forgiveness \(PSLF\)](#), [total and permanent disability \(TPD\) discharge](#), and [closed school discharge](#).
 6. The outstanding balance of certain loans [obtained to attend an institution or program whose participation in HEA Title IV programs ends by ED action](#) for failing to (a) meet an "accountability standard based on student outcomes" (e.g., [cohort default rate \[CDR\]](#) or [gainful employment \[GE\] requirements](#)) or (b) "deliver sufficient financial value" to students.
 7. The outstanding balance of certain [loans obtained to attend an institution or program that has closed](#) and that ED determines either did not satisfy, for at least one year, an "accountability standard based on student outcomes" or was the subject of an ED review of an alleged failure to "deliver sufficient financial value" to students.
 8. The outstanding balance of certain loans obtained to attend GE programs that have closed and that ED determines [failed debt-to-earnings and earnings premium measures](#) that are [modeled on](#) ED's separate rules pertaining to GE requirements.

The Secretary also proposes to [extend waivers to certain FFELP loans held by a private entity or a guaranty agency](#). A borrower could obtain a waiver of the outstanding balance of their loan if the loan was disbursed before July 1, 2000; if the borrower is eligible for, but did not obtain, a closed school discharge; or if the borrower's institution lost Title IV eligibility due to a high CDR and the borrower was included in that CDR.

Estimated Waiver Effects

ED estimates that a total of [27.6 million borrowers](#) (about 64% of all borrowers) would be eligible for some amount of federal student loan waiver under the NPRM. For example, the [Administration estimates](#) it would waive balance growth for up to 25 million borrowers, with 23 million likely to have all "balance growth forgiven." About 2 million borrowers would receive a waiver based on their eligibility for existing loan discharge, cancellation, and forgiveness opportunities (e.g., IDR plans, PSLF, TPD).

Next Steps

ED will accept public comment on the NPRM through May 17, 2024. ED “[aims to finalize these rules in time to start delivering relief this fall](#).” In addition, in February 2024, the Student Loan Debt Relief Negotiated Rulemaking Committee reached consensus on a [hardship-based waiver proposal](#). ED intends to issue a [second NPRM](#) for a hardship-based waiver in the future.

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