

1 ALDEN F. ABBOTT
2 Acting General Counsel

3 SARAH SCHROEDER, Cal. Bar No. 221528
4 ROBERTA TONELLI, Cal. Bar No. 278738
5 EVAN ROSE, Cal. Bar No. 253478
6 Federal Trade Commission
7 901 Market Street, Suite 570
8 San Francisco, CA 94103
9 sschroeder@ftc.gov, rtonelli@ftc.gov, erose@ftc.gov
10 Tel: (415) 848-5100; Fax: (415) 848-5184

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **OAKLAND DIVISION**

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 vs.

18 AMERICAN FINANCIAL BENEFITS
19 CENTER, a corporation, also d/b/a AFB and AF
20 STUDENT SERVICES;

21 AMERITECH FINANCIAL, a corporation;

22 FINANCIAL EDUCATION BENEFITS
23 CENTER, a corporation; and

24 BRANDON DEMOND FRERE, individually
25 and as an officer of AMERICAN FINANCIAL
26 BENEFITS CENTER, AMERITECH
27 FINANCIAL, and FINANCIAL EDUCATION
28 BENEFITS CENTER,

Defendants.

Case No. 4:18-cv-00806-SBA

Related Case: 4:17-cv-04817-SBA

**DECLARATION OF IAN FOSS IN
SUPPORT OF FEDERAL TRADE
COMMISSION'S MOTION FOR
PRELIMINARY INJUNCTION**

**DECLARATION OF IAN FOSS
PURSUANT TO 28 U.S.C. §1746**

I, Ian Foss, hereby declare as follows:

1. I am a citizen of the United States over the age of 18. I am employed as a Program Specialist by the U.S. Department of Education (“Education”) in the Federal Student Aid office, Policy Liaison and Implementation Staff.
2. As a Program Specialist, my primary function is to communicate policy guidance related to the William D. Ford Direct Loan (Direct Loan) Program, the Federal Family Education Loan (FFEL) Program, and other Federal student financial aid Programs administered by Education. I am also familiar with the laws and rules governing the Federal Perkins Loan (Perkins Loan) Program.
3. In the course of performing my official responsibilities, I have become familiar with the various types of Federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA) and with the regulations that apply to those programs. In particular, I am familiar with Education’s repayment, forgiveness and discharge options for loans made under the Direct Loan and FFEL programs.
4. The information in this declaration is based upon my knowledge of the Federal student financial assistance programs authorized by Title IV of the HEA and Education’s regulations and of the laws relating to the collection of Federal student loans.

OVERVIEW OF THE DIRECT LOAN, FFEL AND PERKINS PROGRAMS

5. The Direct Loan Program was created in 1993 and, since July 1, 2010, has been the primary Federal student loan program.
6. The FFEL Program was created in 1965 and, until July 1, 2010, was the primary Federal student loan program. No new FFEL Program loans have been made since June 30, 2010.
7. The Perkins Loan Program was created in 1958 and is much smaller than the Direct Loan and FFEL programs.
8. Generally, Direct Loans and FFEL loans have the same terms and conditions for the borrowers.
9. There are four types of loans under the Direct Loan and FFEL programs:
 - a. Direct Subsidized Loans and FFEL Subsidized Stafford Loans are or were made to eligible students who demonstrated financial need. Since July 1, 2012, only undergraduate students may receive these loans.
 - b. Direct Unsubsidized Loans and FFEL Unsubsidized Stafford Loans are or were made to eligible students without regard to financial need.

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- c. Direct PLUS Loans and FFEL PLUS Loans are or were made to eligible parents of eligible dependent undergraduate students, or (since July 1, 2006) to eligible graduate or professional students. To receive a PLUS loan, a borrower must not have an adverse credit history.
 - d. Direct Consolidation Loans and FFEL Consolidation Loans are or were made to allow eligible student and parent borrowers to combine loans made under the Direct, FFEL, Perkins and certain other federal student loan programs into one loan.
10. There is only one type of Perkins Loan. Perkins Loans are made by schools to eligible undergraduate or graduate or professional students who demonstrate financial need.
 11. Students are limited in how much they can borrow in Direct Subsidized and Direct Unsubsidized loans each year. The same limits applied to FFEL loans. The annual limit depends on the student's year in school, the student's status as a dependent or independent student and the student's status as an undergraduate or graduate or professional student. Other factors that affect how much a student can borrow each year are the student's cost of attendance, the period for which the student is receiving the loan, other aid received by the student and prior loans.
 12. Students are limited in how much they can borrow in Direct Subsidized and Direct Unsubsidized Loans on an aggregate basis. The amount of any prior FFEL Subsidized Stafford or Unsubsidized Stafford Loans also counts toward the borrower's aggregate limit. The aggregate limit depends on the student's status as a dependent or independent student and on whether the student is an undergraduate or graduate or professional student.
 13. Direct PLUS Loans do not have an annual limit. The maximum amount a parent or student borrower may borrow is limited to the student's cost of attendance minus the amount of other aid received by the student. There are no aggregate limits on PLUS loans.
 14. Students are limited in how much they can borrow in Perkins Loans each academic year. The annual limit depends on whether the student is an undergraduate or a graduate or professional student.
 15. Federal Perkins Loans are subject to an aggregate limit depending on the whether the student is an undergraduate or a graduate or professional student.
 16. If a borrower consolidates non-Direct Loans into a Direct Consolidation Loan the borrower can take advantage of all of the benefits of a Direct Loan.
 17. Education is the only holder of Direct Loans.
 18. FFEL loans may be held by an eligible lender, a guaranty agency or Education.

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19. Perkins Loans are held by the school which made the loan or Education.
20. As of September 30, 2017, there was \$1.05 trillion outstanding in Direct Loans made to or on behalf of 33 million students.
21. As of September 30, 2017, there was \$305.8 billion outstanding in FFEL Program loans that were made to or on behalf of 14.9 million students.
22. As of September 30, 2017, there was \$7.6 billion outstanding in Perkins Loans that were made to 2.5 million students.
23. As of September 30, 2017, of the \$305.8 billion outstanding in FFEL Program loans, Education held \$93.7 billion or 30.6 percent. This includes loans made to or on behalf of approximately 7.04 million students.

INTEREST RATES ON DIRECT, FFEL AND PERKINS LOANS

25. Interest rates on Federal student loans are set by statute.
26. Some interest rates are specifically set in statute while others are calculated pursuant to a statutory formula and schedule.
27. Direct and FFEL Program loans first disbursed on or after July 1, 2006 have fixed interest rates.
28. Direct Loans first disbursed on or after July 1, 2013 have fixed interest rates that are calculated pursuant to a statutory formula:
 - a. Interest rates are calculated for loans first disbursed between July 1 of each calendar year and June 30 of the following calendar year.
 - b. The formula used for calculating the interest rate is the high-yield rate of the last 10-year Treasury Note auction prior to June 1, plus a margin.
 - c. The margin is different for different loan types and whether the borrower is an undergraduate or a graduate student.
29. Direct Loan and FFEL loans first disbursed prior to July 1, 2006 had variable or fixed interest rates depending on when they were disbursed.
30. FFEL lenders may charge a borrower less than the statutory interest rate.
31. In the Direct Loan Program, Education generally charges borrowers the applicable statutory interest rate for their type of loan except that a borrower may receive a 0.25 percentage point reduction in the interest rate by agreeing to repay the loan through an electronic debit from a bank account.
32. Perkins Loans have a 5 percent interest rate.

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DIRECT LOAN AND FFEL PROGRAM REPAYMENT OPTIONS

33. In the Direct Loan and FFEL Programs there are two basic types of repayment plans: traditional repayment plans and income-driven repayment (IDR) plans.
34. Traditional repayment plans require that the loan be repaid in full by the end of a specified repayment period. The required monthly payment amount is determined based on the loan amount, the interest rate and the repayment period (or “loan term”).
35. IDR plans provide borrowers with a monthly payment based on the borrower’s income, family size and, in some cases, loan amount. After a specified number of years of qualified repayment, the borrower’s remaining loan balance may be forgiven.
36. The traditional repayment plans are the Standard Repayment plan, the Graduated Repayment plan and the Extended Repayment plan.
37. In the Standard Repayment plan, payments are fixed over the course of the repayment period. The repayment period for most loans is 10 years. However, the repayment period for Consolidation loans is between 10 and 30 years depending on the amount of the borrower’s total education debt.
38. In the Graduated Repayment plan, payments start as low as the amount of accruing interest and gradually increase every two years. No single scheduled payment can be more than three times greater than any other payment. The repayment period for most loans is 10 years. However, the repayment period for Consolidation loans is between 10 and 30 years depending on the amount of the borrower’s total education debt.
39. In the Extended Repayment plan, payments are fixed or graduated, at the borrower’s choosing. This plan is only available to new borrowers on or after October 7, 1998 who owe more than \$30,000 in Direct or FFEL loans. The repayment period is 25 years.
40. There are four IDR plans: the Income-Contingent Repayment (ICR) plan; the Income-Based Repayment (IBR) Plan, the Pay As You Earn (PAYE) plan and the Revised Pay As You Earn (REPAYE) plan.
41. In the FFEL Program, the IBR Plan is the only IDR plan that is available. However, borrowers can choose an Income-Sensitive Repayment Plan. Under this plan, the lender creates a formula by which it will calculate the borrower’s payment, based on the borrower’s income. The borrower’s payment must be at least the amount of accruing interest and the repayment period is 10 years (but it may be extended by 5 more years) through the use of forbearance.
42. All of the IDR plans are available in the Direct Loan Program but not all borrowers can use all of the plans.

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43. In the Direct Loan Program, a borrower may change repayment plans at any time. In the FFEL Program, a lender may limit a borrower to one change per year except that the borrower may change to the IBR plan at any time.
44. In the Federal student loan programs, a borrower cannot be charged a fee for choosing a particular repayment plan or changing repayment plans.
45. In the Federal student loan programs, the borrower may always prepay a loan, at any time, without penalty or charges.
46. For borrowers repaying loans under traditional repayment plans, the ICR Plan or the Income-Sensitive Repayment Plan, payments are applied first to collection costs, then to outstanding interest and then to the loan principal. In the IBR, PAYE and REPAYE plans, payments are applied first to interest, then to collection costs and then to principal.
47. In the FFEL Program, lenders may charge a borrower a late fee for late payments of up to 6 percent. Education does not charge a late fee on Direct Loans or FFEL loans it holds.

THE ICR PLAN

48. The ICR Plan is only available to Direct Loan borrowers. Direct PLUS loans made to parent borrowers are not eligible for the ICR Plan but Direct Consolidation Loans made on or after July 1, 2006 that repaid Direct PLUS loans made to parents are eligible for the ICR Plan.
 - a. Under the ICR plan, payments are the lesser of: (i) 20 percent of the difference between the borrower's income and the poverty guideline amount for the borrower's family size and state of residence; or (ii) the amount the borrower would pay if the payment was calculated based on a 12-year amortization schedule with fixed payments adjusted based on the borrower's income.
 - b. The income of a borrower's spouse is considered in the calculation of the borrower's payment amount if they file a joint federal tax return or they elect to jointly repay their Direct Loans under the ICR Plan.
 - c. If a spouse's income is included in the calculation of the borrower's payment, the payment amount for each individual is prorated by the percentage of the combined eligible Direct Loan debt attributable to the borrower.
 - d. The repayment period in the ICR Plan is 25 years. Any remaining loan balance after 25 years of qualifying repayment is forgiven.

THE IBR PLAN

49. Both Direct Loan and FFEL Loan borrowers are eligible for the IBR Plan. Direct and FFEL PLUS Loans made to parent borrowers and Direct and FFEL Consolidation Loans that repaid those loans are not eligible for the IBR Plan.

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- a. Under the IBR plan, payments are the lesser of: (i) 15 percent (or 10 percent if the borrower is a new borrower after July 1, 2014) of the difference between the borrower's income and 150 percent of the poverty guideline amount for the borrower's family size and state of residence; or (ii) the amount the borrower would have paid under the 10-year Standard Repayment Plan at the borrower requested the IBR Plan.
- b. To use the IBR plan, the borrower must have a partial financial hardship (PFH). A PFH exists is the monthly amount the borrower would pay on the borrowers' eligible Federal student loans under the 10-year Standard Repayment Plan (based on the greater of the loan amount owed when the borrower first entered repayment or the amount owed when the borrower requested the IBR Plan) is greater than the amount the borrower would pay under the IBR Plan, as calculated under the formula described in paragraph 49.a.i.
- c. The income of a borrower's spouse is considered in the calculation of the borrower's PFH and payment amount if they file a joint federal tax return.
- c. If a spouse's income is included in the calculation of the borrower's payment, the payment amount for each individual is prorated by the percentage of the combined eligible Direct Loan debt attributable to the borrower.
- d. The repayment period in the IBR Plan is 25 years (or 20 years for a new borrower on or after July 1, 2014). Any remaining loan balance after 25 or 20 years of qualifying repayment is forgiven.

THE PAYE PLAN

50. Only Direct Loan borrowers are eligible for the PAYE Plan. Direct PLUS Loans made to parent borrowers and Direct Consolidation Loans that repaid Direct or FFEL PLUS loans made to parent borrowers are not eligible for the IBR Plan.
 - a. Under the PAYE plan, payments are the lesser of: (i) 10 percent of the difference between the borrower's income and 150 percent of the poverty guideline amount for the borrower's family size and state of residence; or (ii) the amount the borrower would have paid under the 10-year Standard Repayment Plan at the borrower requested the PAYE Plan.
 - b. To use the PAYE plan, the borrower must have a partial financial hardship (PFH). A PFH exists is the monthly amount the borrower would pay on the borrowers' eligible Federal student loans under the 10-year Standard Repayment Plan (based on the greater of the loan amount owed when the borrower first entered repayment or the amount owed when the borrower requested the PAYE Plan) is greater than the amount the borrower would pay under the PAYE Plan, as calculated under the formula described in paragraph 50.a.i.

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- c. To use the PAYE Plan, the borrower must be a new borrower of a Direct Loan on or after October 1, 2007 who received a disbursement of a Direct Loan on or after October 1, 2011.
- d. The income of a borrower's spouse is considered in the calculation of the borrower's PFH and payment amount if they file a joint federal tax return.
- e. If a spouse's income is included in the calculation of the borrower's payment, the payment amount for each individual is prorated by the percentage of the combined eligible Direct Loan debt attributable to the borrower.
- d. The repayment period in the PAYE Plan is 20 years. Any remaining loan balance after 20 years of qualifying repayment is forgiven.

THE REPAYE PLAN

- 51. Only Direct Loan borrowers are eligible for the REPAYE Plan. Direct PLUS Loans made to parent borrowers and Direct Consolidation Loans that repaid Direct or FFEL PLUS loans made to parent borrowers are not eligible for the IBR Plan.
 - a. Under the PAYE plan, payments are 10 percent of the difference between the borrower's income and 150 percent of the poverty guideline amount for the borrower's family size and state of residence.
 - b. Generally, the income of a borrower's spouse is considered in the calculation of the borrower's payment amount regardless of whether they file a joint federal income tax return or separate returns.
 - c. If a spouse's income is included in the calculation of the borrower's payment, the payment amount for each individual is prorated by the percentage of the combined eligible Direct Loan debt attributable to the borrower.
 - d. The repayment period in the REPAYE Plan is 20 years if the borrower is only repaying Direct Loans received as an undergraduate student. Any remaining loan balance after 20 years of qualifying repayment is forgiven.
 - e. The repayment period in the REPAYE Plan is 20 years if the borrower is repaying any Direct Loans received as a graduate or professional student. Any remaining loan balance after 20 years of qualifying repayment is forgiven.

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f. One of the factors that determines the borrower's payment amount is family size. The chart below provides data about the characteristics of borrowers repaying loans under the ICR or IBR programs, including the average family size. The information in the chart reflects loans held by Education as of November 11, 2016, including borrowers who are delinquent on making payments but not including borrowers who are in deferment or forbearance

Plan	Borrowers	Average Income	Average Principal Balance	Average Interest Balance	Average Family Size	Average Monthly Payment
ICR	454,611	\$42,449.94	\$36,974.51	\$1,275.25	2.32	\$261.06
IBR w/ PFH	2,124,468	\$35,070.99	\$56,232.77	\$3,975.64	2.47	\$98.32
IBR no PFH	742,857	\$32,674.74	\$36,630.07	\$687.60	2.46	\$391.68
PAYE PFH	643,184	\$30,617.13	\$51,513.74	\$2,900.63	2.11	\$72.51
PAYE no PFH	179,858	\$23,787.19	\$25,142.25	\$621.82	2.18	\$272.21
REPAYE	787,165	\$32,769.13	\$47,207.63	\$735.34	2.25	\$59.66

DIRECT LOAN AND FFEL PROGRAM LOAN FORGIVENESS AND DISCHARGES

52. The HEA includes three opportunities for Direct Loan and FFEL program borrowers to have the balance of their loans forgiven: (a) forgiveness of the remaining balance under the IDR Plans as described above; (b) Teacher Loan Forgiveness; and (c) Public Service Loan Forgiveness.
53. The HEA also provides for seven situations in which a borrower's loans may be discharged based on: (a) death; (b) total and permanent disability; (c) closed school; (d) false certification; (e) unpaid refund; (f) bankruptcy; and (g) borrower defenses.
54. Forgiveness or discharge of a loan is only granted the borrower meets specific eligibility requirements.
55. A borrower is not charged any fees for requesting or receiving loan forgiveness or discharge.

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TEACHER LOAN FORGIVENESS

56. To qualify for Teacher Loan Forgiveness, a FFEL or Direct Loan borrower must be a new borrower on or after October 1, 1998.
57. The borrower must be employed as a full-time teacher for five complete and consecutive academic years, at least one of which was after the 1997-98 academic year.
58. The loans for which the borrower is seeking forgiveness must have been made before the end of the five years of qualifying teaching service.
59. If the borrower uses periods of teaching service to receive benefits through Public Service Loan Forgiveness or AmeriCorps, the same service cannot be used to qualify for Teacher Loan Forgiveness.
60. The borrower must have been employed in an elementary school, secondary school or by an educational service agency that:
 - a. Is in a school district that qualifies for funds under Title I of the Elementary and Secondary Education Act of 1965, as amended;
 - b. Has been selected by Education based on a determination that more than 30 percent of the school's total enrollment is made up of children who qualify for services under Title I; and
 - c. Is listed in the Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits.
61. Teaching at an educational service agency counts toward the required period of teaching service only if the five-year period includes service after the 2007-08 academic year.
62. If a borrower qualifies for Teacher Loan Forgiveness, the borrower's Direct Loans or FFEL Loans are eligible for forgiveness up to \$5000 or \$17,500 depending on the subject matter the borrower taught and other factors. The maximum loan forgiveness amounts are combined for the two programs. Direct PLUS Loans and FFEL PLUS Loans are not eligible for Teacher Loan Forgiveness.

PUBLIC SERVICE LOAN FORGIVENESS (PSLF)

63. Under PSLF a Direct Loan borrower will qualify to have the remaining balance on their Direct Loans forgiven after they have made 120 scheduled, on-time, monthly payments on the loan after October 1, 2007 while working for a qualified employer.
64. Payments must be made under an IDR repayment plan or the 10-year Standard Repayment Plan.
65. Public service organizations include: Federal, state, local and tribal governments; non-profit organizations that are exempt from Federal taxes under Section 501(c)(3) of the

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Internal Revenue Code; Tribal colleges or universities; public child or family service agencies; or other non-profits that provide certain specified services. For-profit businesses, labor unions and partisan political organizations do not qualify.

66. Because PSLF requires 120 monthly payments (10 years) after October 1, 2007, borrowers could not qualify for forgiveness until the fall of 2017 at the earliest. To date, Education has only received a limited number of applications for forgiveness under PSLF and only a few borrowers have demonstrated that they met the statutory qualifications for forgiveness.

IDR FORGIVENESS

67. Under the IDR Plans, any outstanding balance remaining at the end of the repayment period will be forgiven.
68. Generally, payments made under one IDR plan count toward forgiveness for the other IDR plans. Payments made under the 10-year Standard Repayment Plan and periods in which the borrower is in deferment on the basis of economic hardship also count.
69. In the IBR Plan, the earliest date on which a borrower could begin earning credit toward loan forgiveness was July 1, 2009. Therefore, no borrowers will be eligible for forgiveness until 2034.
70. In the PAYE Plan, the earliest date on which a borrower could begin earning credit toward loan forgiveness was October 1, 2007. Therefore, no borrowers will be eligible for forgiveness until 2027.
71. In the ICR and REPAYE plans, all payments or qualifying deferments count toward forgiveness without regard to when they were made.
72. Any loan amounts that are forgiven may be considered taxable income.

CLOSED SCHOOL, FALSE CERTIFICATION AND UNPAID REFUND DISCHARGES

73. If a Direct Loan or FFEL loan borrower or a student on whose behalf a parent borrowed a Direct or FFEL PLUS Loan is enrolled when the school the student is attending closes, or withdrew not more than 120 days prior to when the school closed (or longer under exceptional circumstances), the borrower is eligible for a closed school discharge unless the student is completing a comparable program at another school through a teach-out agreement or by transferring academic credits from the closed school.
74. If a school falsely certified the eligibility of a borrower (or the student on whose behalf a parent borrowed) to receive a loan, the borrower may be eligible to have the balance on the Direct Loan or FFEL Loan discharged. False certification by the school includes: certifying the student's eligibility on the basis of the student's ability to benefit from its training when the student did not meet the requirements for such certification; certifying the eligibility of a student who would not meet the requirements for employment in the

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student's State of residence when the loan was made in the occupation for which the training program paid for with the loan proceeds was intended; or certifying an individual's eligibility for the loan as a result of the crime of identity theft against the individual.

75. If a school, without the borrower's authorization, signed the promissory note for the loan, endorsed the borrower's loan check or signed the borrower's electronic funds transfer authorization, the borrower may have the remaining balance on a Direct or FFEL loan discharged unless the proceeds of the loan were delivered to the student or applied to charges owed by the student to the school.
76. During calendar year 2016, the Department granted approximately 250 false certification discharges.
77. If a school is obligated to refund all or a portion of a Direct Loan but fails to do so, the student may be eligible for an unpaid refund discharge for the amount that should have been refunded.

DEATH AND TOTAL AND PERMANENT DISABILITY DISCHARGES

78. If a borrower or a student on whose behalf a parent borrowed a Direct or FFEL PLUS Loan dies, the remaining balance on the loan is forgiven. The loan amount that is forgiven may be considered taxable income.
79. In Federal fiscal year 2016, approximately 35,000 student loans were discharged on the basis of death.
80. A borrower may receive a discharge of a Direct Loan, a FFEL Program Loan or a Perkins Loan if the borrower submits documentation demonstrating that the borrower has a total and permanent disability. The documentation may be from:
 - a. the Social Security Administration (SSA) showing that the borrower is eligible for certain benefits on the basis of a disability and that the SSA rated the borrower to have a disability for which "medical improvement is not expected";
 - b. the Department of Veterans Affairs showing that the borrower is the borrower is unemployable due to a service-connected disability; or
 - c. a physician stating that the borrower is unable to engage in any substantial gainful activity by reason of a medically determinable impairment that is expected to result in death or that has lasted or is expected to last for a continuous period of at least 60 months.
81. If a borrower receives a discharge on the basis for SSA documentation or a physician's certification, the borrower's earnings from employment are monitored for 3 years following the discharge to ensure that the borrower is unable to engage in substantial 82 gainful activity.

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82. If a borrower is subject to the 3 year monitoring period and in any year the borrower's employment earnings exceed the poverty guideline for a family of two, the borrower's obligation to repay the loan is reinstated. The loan obligation is also reinstated if the borrower receives certain types of Federal student financial aid.
83. Any loan amount that is forgiven may be considered taxable income.
84. During Federal fiscal year 2016, approximately 190,000 borrowers received discharges based on a total and permanent disability.

BANKRUPTCY DISCHARGE

85. A Direct or FFEL Loan may be discharged in bankruptcy if the borrower files a complaint to determine dischargeability and the court determines that requiring payment of the loan would cause an undue hardship to the borrower.

BORROWER DEFENSE DISCHARGE

86. Under the regulations currently in effect, a Direct Loan borrower may assert as a defense to repayment of a loan any act or omission of the school attended by the student that would give rise to a cause of action under applicable state law.
87. Under the regulations currently in effect, a FFEL Program lender is subject to all claims and defenses a borrower could assert against the school with respect to the loans held by the lender if the loan was made by the school or a school-affiliated organization, the lender who made the loan provided an improper inducement to the school or any other party in connection with the making of the loan, or the school is affiliated with the lender by common control, contract or business arrangement.

OTHER DIRECT LOAN AND FFEL PROGRAM LOAN REPAYMENT OPTIONS

88. In the Direct Loan and FFEL loan programs, borrowers who are in repayment on their loan have the option to request a deferment or a forbearance on repayment of their loan.
89. Deferments are granted if the borrower meets certain specific eligibility requirements.
90. Mandatory forbearances are granted if the borrower meets the eligibility requirements.
91. Discretionary forbearances may be granted at the discretion of Education on Direct Loans or FFEL loans that it holds or the lender on other FFEL loans.
92. Administrative and mandatory administrative forbearances are granted by Education or the FFEL lender without the request or any documentation from the borrower and are generally used to eliminate periods of delinquency after a borrower has made alternative arrangements to repay the debt or while Education or the lender is processing the borrower's request for another benefit on the loan.

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93. Most borrowers can receive a deferment for periods in which they are: (a) enrolled in school on at least a half-time basis; (b) enrolled in a graduate fellowship program; (c) enrolled in rehabilitation training program; (d) unemployed; (e) experiencing an economic hardship; (f) on active duty military service; or (g) recently completed active duty military service.
94. Borrowers who received a FFEL Program loan before July 1, 1993 are eligible for different deferments on their loans.
95. Most borrowers can receive a mandatory forbearance for periods in which: (a) their monthly student loan payments exceed 20 percent of their monthly income; (b) they are serving in the National Guard; (c) they are engaged in a medical or dental internship or residency program; or (d) they are participating in the Department of Defense's Student Loan Repayment Program.
96. A borrower may receive a discretionary forbearance if the borrower demonstrates to the satisfaction of Education or the FFEL lender that the borrower is temporarily unable to repay the loan due to financial, medical or other reasons and that the borrower intends to repay the loan.
97. Periods of deferment or forbearance generally do not count against the borrower's repayment period except for economic hardship deferments which do count towards the maximum repayment period on IDR repayment plans.
98. A borrower is not charged any fees for requesting or receiving a deferment or forbearance on a loan.

INTEREST CHARGES AND SUBSIDIES ON DIRECT AND FFEL LOANS

99. Generally, a borrower is charged interest on the amount of their Direct and FFEL loans.
100. There are some periods during the life of a loan when interest is not charged on the loan.
101. If the borrower has a Subsidized Direct Stafford Loan or a Subsidized FFEL Stafford Loan or certain Consolidation Loans the borrower is not responsible for paying interest until the loan while the borrower is in school, during a grace period after leaving school and during periods of deferment.
102. If the borrower has a subsidized loan and is repaying the loan under the IBR, PAYE or REPAYE repayment plan, the borrower is not responsible for paying interest not covered by the borrower's monthly payment amount, if any, during the first three years of repayment.
103. If the borrower has a subsidized loan and is repaying the loan under the REPAYE repayment plan, the borrower is not responsible for paying half of the interest not covered by the borrower's monthly payment amount, if any after the first three years of repayment. If the borrower has an unsubsidized loan and is repaying the loan under the

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REPAYE repayment plan, the borrower is not responsible for paying half of the interest not covered by the borrower's monthly payment, if any, during all periods of repayment under the REPAYE plan.

104. On Direct Loans first disbursed on or after October 1, 2008, the borrower is not responsible for paying the accrued interest for up to 60 months while the borrower is on active duty military service and is receiving special pay due to serving in an area of hostilities.

DEFAULT IN THE DIRECT LOAN AND FFL PROGRAMS

105. For almost all Direct Loans and FFEL loans, a borrower is considered to be in default on a loan when the borrower has not made scheduled payments for 270 days or more. At that point the entire remaining balance on the loan becomes immediately due and payable.
106. When a borrower defaults on a loan there is a significant change in how the loan holder handles the loan. Before a borrower defaults, the loan holder reminds the borrower when payments are due and urges the borrower to make payments through letters, emails and phone calls. Once a borrower defaults, additional steps are taken to ensure that the loan is repaid.
107. In regard to Direct Loans and FFEL loans that Education holds, when a borrower has not made payments on a loan for 360 days, the loan is transferred from the regular loan servicer to collections.
108. In the case of FFEL loans not held by Education, when a borrower has not made payments on a loan for 270 days, the loan holder presents an insurance claim to the guaranty agency. The guaranty agency generally pays the claim within 90 days and takes the loan. The guaranty agency is then responsible for collecting on the loan. If the guaranty agency cannot collect the loan it will eventually be transferred to Education.
109. A borrower who defaults on a loan is not eligible for any additional aid from the Federal student financial aid programs.
110. After the borrower defaults on a loan and the loan is transferred to Education's collections or to the guaranty agency, additional collection efforts are used. The borrower's wages may be garnished and any tax refunds or federal benefits may be offset to collect the loan. The default is reflected on the borrower's credit history. The borrower may also be sued.
111. A defaulted borrower is generally charged collection costs on the loan.
112. A borrower may resolve the default by repaying the loan in full, entering into and completing a loan rehabilitation agreement or by making satisfactory repayment arrangements on the loan and then repaying the loan through a consolidation loan.

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113. In a loan rehabilitation agreement between the borrower and the loan holder, the parties agree on a reasonable and affordable monthly payment amount based on the borrower's income or income and expenses. If the borrower makes nine on-time, full, voluntary payments within 10 months of entering into the rehabilitation agreement, the borrower's loan is no longer considered to be in default.
114. A borrower may enter into a satisfactory repayment arrangement with the loan holder that will allow the borrower to repay the defaulted loan through a new Direct Consolidation Loan. The borrower must make three consecutive voluntary on-time full monthly payments. Alternatively, the borrower can also make satisfactory repayment arrangements by agreeing to repay the new Direct Consolidation Loan under an IDR plan.

EDUCATION'S STUDENT LOAN CONTRACTORS

115. Education hires contractors to service and collect on the loans that it holds. Those contractors are generally hired through a competitive process.
116. The companies named Ameritech Financial, American Financial Benefits Center and Financial Education Benefits Center do not have contracts with Education and have never had any relationship or affiliation of any type with Education.
117. Only Education can determine that students and parents are eligible for federal student loans or for the various repayment plans on those loans and only Education makes Federal Direct Loans.
118. Only Education has the authority to approve, pre-approve, qualify or pre-qualify a student or parent for a Federal Direct Loan or for a repayment plan on those loans. In making such decisions Education is bound by the HEA and the applicable federal regulations.
119. Only Education can adjust, modify or otherwise change the repayment terms or plan on an individual borrower's Direct Loan. In making such decisions Education is bound by the HEA and the applicable federal regulations.
120. Under the HEA and Education's regulations, a borrower cannot be charged any fees for requesting or receiving loan forgiveness or cancellation, a deferment or forbearance on the loan, loan consolidation or enrollment in or a change of the borrower's repayment plan.

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I understand and agree that this Declaration may be used by the Federal Trade Commission in a law enforcement proceeding.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the statements made in this declaration are true and correct.

Executed in Washington, D.C. on April 3, 2018.



Ian Foss