

DEPARTMENT OF EDUCATION – JUSTIFICATION LETTER FOR EMERGENCY APPROVAL

DATE March 20, 2025

TO: Office of Information and Regulatory Affairs
Office of Management and Budget

THROUGH: Strategic Collections and Clearance
Governance and Strategy Division
Office of Chief Data Officer
Office of Planning, Evaluation and Policy Development
U.S. Department of Education

FROM: Dave Musser Acting Director
Policy Implementation Division
Federal Student Aid (FSA)
U.S. Department of Education

SUBJECT: Request for emergency clearance no later than March 31, 2025, for a revised Income-Driven Repayment (IDR) Plan Request form to incorporate updates which align with the revised court ordered injunction issued February 18, 2025 regarding the provisions in effect governing repayment plans under the Higher Education Act of 1965, as amended (HEA) and current FSA operational limitations due to court actions.

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 C.F.R. part 1320, the U.S. Department of Education (Department) requests that the information collection 1845-0102, IDR Plan Request form, be processed in accordance with 5 C.F.R. § 1320.13 Emergency Processing. We are also requesting that the full clearance package be filed at the same time and note that the Department will initiate the 60-day public comment period upon notification of emergency approval.

The Department is requesting emergency clearance to update the Income-Driven Repayment (IDR) Plan form (1845-0102) so that it complies with the revised injunction. Borrowers may experience undue financial hardship if the Department is unable to provide a form that includes only the available plans and the terms and conditions currently in effect as a result of court orders, and if borrowers do not have clear information about the current operational method for submitting income data for calculating payments for their selected IDR plan. The resulting updated form reverts to a version of the form previously approved and developed with stakeholder input, but without the SAVE Plan (or REPAYE Plan that preceded the SAVE Plan) as it is subject to the injunction.

1. Information is Essential to the Mission of the Agency

The Department and its servicers manage the collection and servicing of student loans held by more than 43 million borrowers. On July 10, 2023, the Department published final regulations

amending the IDR regulations, including the creation of the Saving on a Valuable Education (SAVE) plan, which replaced the Revised Pay As You Earn (REPAYE) plan with some provisions identified for early implementation on July 30, 2023. The remaining provisions went into effect on July 1, 2024, but court challenges resulted in an injunction preventing the Department from implementing the provisions of the SAVE plan not already implemented but allowed other provisions of the final rule to go into effect, including the change in the definition of family size that is used to calculate the monthly payment amount for all IDR plans. The revised injunction issued February 18, 2025 enjoined the Final Rule in its entirety including the provisions that were already implemented. The Department was in the process of updating the IDR form to align with the full set of July 1, 2024 regulations, including the additional provisions related to the SAVE plan and the remaining provisions of the Final Rule regarding all IDR plans, but paused work on this form as a result of the court orders. This resulted in the currently approved form reflecting only the early implemented provisions of the Final Rule. However, the revised injunction enjoined the entirety of the Final Rule including the early implemented provisions.

As a result of the revised injunction, the Department has temporarily stopped processing IDR applications. FSA and servicer systems are not able to currently process IDR applications with the correct monthly payment amounts under the terms and conditions of the revised injunction. FSA and servicers will be ready to resume processing by the end of March and once the updated form is approved.

As a result, the Department is requesting to update this form to align with the revised injunction. Because this form is how borrowers sign up for IDR plans, the information and certifications collected on this updated form are necessary for the Department to abide by its statutory obligations related to IDR.

Specifically, the information collected through the revised form will support borrowers' selection of repayment options for Federal student loan borrowers. However, implementing the revised IDR form by March 31, 2025 will best position the Department to meet its statutory obligation and meet the requirements of the revised injunction.

2. The Information is Needed Prior to the Expiration of Time Periods Established Under PRA

To minimize additional pressure on borrowers who may be unable to enroll in an IDR plan available pursuant to the revised injunction, we are requesting the updated form be approved through this emergency request. The Department will be proceeding with a full clearance to allow for full public comment.

3. Public Harm is Reasonably Likely to Result if Normal Clearance Procedures are Followed

Due to the revised court injunction, additional changes must be made to the form to remove the SAVE plan as an option and revise the family size definition to reflect the pre-Final Rule definition as a result of the court order. Without emergency approval of the new form by

March 31, 2025, borrowers will continue to request enrollment in a plan that is blocked by the injunction and be misinformed regarding who is counted in their family size.

4. An Unanticipated Event Has Occurred

The Department continues to face unanticipated external, legal challenges that fundamentally change the options available to borrowers who seek to enroll in income-driven repayment. Ongoing litigation and the revised injunction against the 2023 regulations have resulted in an unanticipated situation beyond the Department's control that significantly impacts millions of borrowers. Together, these challenges have resulted in borrowers not having access to the correct repayment plan options currently available to them, which, in turn, could result in negative financial consequences for them for years to come.

Conclusion

Following the normal clearance procedures for this information collection will delay the Department's ability to best support borrowers with required and up-to-date repayment options. We believe it is critical to minimize confusion and hardship for borrowers and provide an updated repayment plan selection form for these borrowers.

If the Department were required to put the collection through the normal clearance process, we would be unable to implement the necessary repayment information collection by March 31, 2025 resulting in several months of delays in providing eligible borrowers with the IDR repayment plans available as a result of the revised injunction. As a result, the Department is requesting that OMB approve the collection using the emergency clearance procedures so that we meet the implementation requirement.

Thank you for your consideration.