

LETTER *Published May 5, 2025 • 5 minute read*

Comments on Negotiated Rulemaking Agenda for Higher Education



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The Honorable James P. Bergeron
Acting Under Secretary
US Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Docket ID: ED-2025-OPE-0016

Dear Acting Under Secretary Bergeron,

Thank you for the opportunity to offer comment on the Department of Education's proposed negotiated rulemaking agenda. Third Way is grateful for the Department's attention to key issues under Title IV of the *Higher Education Act* that directly impact students, borrowers, and taxpayers. This written submission reflects and briefly expands upon the oral comments presented on behalf of Third Way during the Department's public hearings on May 1, 2025.

The regulatory issues on which the Department has expressed intent to establish negotiated rulemaking committees cover a broad range of topics for which sound federal policies are essential to provide appropriate protections for borrowers within the student loan portfolio while ensuring accountability and transparency for institutions participating in the Title IV program. As the Department prepares to propose potential changes to the Public Service Loan Forgiveness (PSLF) program, Pay As You Earn (PAYE) and Income Contingent Repayment (ICR) plans, and other regulatory issues that promote program integrity and institutional quality, Third Way urges the Department to prioritize clarity and consistency for student loan borrowers while adhering closely to Congressional intent for these programs. Third Way also strongly supports and encourages the Department to implement the current Gainful Employment (GE) and Financial Value Transparency (FVT) regulations as swiftly as practicable.

The Department has indicated interest in developing regulatory proposals related to qualifying employers for eligibility for the Public Service Loan Forgiveness program, which was established by Congress and signed into law by President George W. Bush in 2007. The statutory framework of the program includes stringent and intentional definitions of eligible public service employers for the purposes of PSLF; specifically, non-profit organizations with 501(c)(3) status or that provide certain qualifying public services.¹ These parameters provide a meaningful employer recruitment and retention benefit while elevating the appeal of critical public service jobs, and are well-designed to provide a targeted benefit: as of October 2024, approximately one million of the more than 43 million federal student loan borrowers, roughly 2.3%, had earned PSLF relief. It is incumbent on the Department to, at a minimum, ensure continuity of employer eligibility for current borrowers and uphold Congressional intent for the program to lead to earned forgiveness for borrowers serving their communities in careers like law enforcement, firefighting, military service, nursing, or teaching.

A critical component of ensuring the functioning of the federal student loan program is bringing borrowers back into effective repayment following the pauses precipitated by the COVID-19 pandemic. Income-driven repayment plans, including PAYE and ICR, provide practical and vital options for borrowers to ensure an affordable monthly payment while providing the Department with mechanisms to help prevent student loan default. Today, ensuring consistency and clarity around IDR plans that borrowers have had access to for decades and implementing policies that prevent default and increase repayment are critically important. In any new proposed IDR plan or revisions to existing plans, Third Way urges the Department to prioritize ensuring that available options contain necessary and reasonable protections for student loan borrowers that help prevent delinquency and default,

including: auto-enrollment into IDR for student loan borrowers once they reach delinquency and access to IDR and/or reasonable monthly payments when a borrower is in default. Such options would benefit borrowers, lower costs for the Department and student loan servicers during a low-resource period, and minimize the need for intensive technological and outreach material changes by FSA and loan servicers.

Given the Department's commitment to improving program integrity and institutional quality, it should prioritize fully and promptly implementing the Gainful Employment (GE) rule. By prioritizing program-level data, the GE rule provides a valuable accountability tool to weed out underperforming programs at otherwise high-performing schools. Additionally, the GE rule includes common-sense and intuitive calculations for measuring postgraduate outcomes. The debt-to-earnings rates and earnings premium measures allow for a meaningful indicator of return on investment for students and taxpayers and offer clear insight into the financial value of individual programs.

The expanded data made available through the Financial Value Transparency (FVT) framework will apply to all schools, and the transparency these data will create will strengthen decision-making power for students and their families to determine whether, where, and in which higher education program they choose to invest their time and resources. FVT data includes completion and withdrawal rates, median earnings post-graduation, and estimated expenses over the course of a program. Such data will equip students with useful and relevant information to help them decide which college program best fits their needs and goals and allow them to compare price and outcomes information before they apply to college. Third Way urges the Department to maintain all required data components in the final framework and ensure institutional compliance and data accuracy. Additionally, the Department should prioritize and allocate appropriate resources to support the development of the website or platform required to house FVT data so that it can be implemented and made publicly available promptly following the reporting deadline.

We commend the Department for its desire to improve program integrity and institutional quality in its upcoming regulatory agenda. Third Way encourages the Department to prioritize clarity and consistency for student loan borrowers and swiftly implement the GE and FVT final rules in the best interest of federal student loan borrowers, students, and taxpayers. We thank you for your time and the opportunity to contribute to the Department's proposed negotiated rulemaking agenda. Please do not hesitate to contact us should you have any questions.

Sincerely,

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ENDNOTES

1. “What not-for-profit organizations qualify as eligible employers for Public Service Loan Forgiveness (PSLF)?” US Department of Education, Federal Student Aid, <https://studentaid.gov/help-center/answers/article/what-not-for-profits-eligible-employers-for-pslf>.