Vilda Vera Mayuga
Commissioner

42 Broadway
8th Floor
New York, NY 10004

nyc.gov/dcwp

The United States Department of Education
Via Electronic Submission

Docket No: ED–2023–OPE-0004: Request for Comment regarding Improving Income-Driven Repayment for the William D. Ford Federal Direct Loan Program

February 10, 2023

Dear Secretary Miguel Cardona,

The City of New York appreciates the opportunity to respond to the Department of Education's ("ED") request for comment regarding the Federal Student Loan Debt Relief Application (Docket No. ED–2023–OPE-0004).

The New York City Department of Consumer and Worker Protection's ("DCWP") mission is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. Through its community outreach, DCWP empowers New Yorkers by providing them with the tools and resources they need to be educated consumers and to achieve financial health. DCWP also conducts research and advocates for public policy that furthers its work to support New Yorkers.

DCWP's efforts around student loans include:

(a) Providing free one-on-one financial counseling to New York City residents through DCWP Financial Empowerment Centers;
(b) Producing research on student loans, including seven student loan-focused reports published since 2017;
(c) Performing advocacy work, including supporting student loan cancellation efforts;
(d) Taking legal action, including reaching a $20 million settlement to resolve litigation with Berkeley College; and
(e) Disseminating student loan materials to New Yorkers, including major public awareness campaigns such as the 2019 "Be Real About Student Loans" campaign and a 2022 campaign centered around maximizing New York City uptake during the Public Service Loan Forgiveness waiver period.

DCWP applauds ED's efforts to improve Income Driven Repayment ("IDR") plans, one of the few options for managing student loan debt. Approximately one in every six New Yorkers has student loan debt, and more than half of those with debt owe more than $20,000.[1] It is unsurprising that for many borrowers in New York City, student loan debt can create or deepen financial distress. In 2019 and 2020 DCWP surveys, one in five New Yorkers with student loan debt reported that they had been late with payments at least once in the previous twelve months.[2] Federal student loan borrowers may stay in delinquent status for years, even decades, since unlike other types of debt, borrowers can rarely declare bankruptcy or qualify for existing discharge programs.

Since there are few options, DCWP advises nearly all New Yorkers who are struggling with student loan debt to enroll in IDR plans which tie student loan repayment to income, and typically result in monthly payments that are significantly lower than those of a 10-year repayment plan. Through its Financial Empowerment Centers, DCWP has observed how transformational IDR programs can be. Many clients who were saddled with significant debt and hundreds of dollars in monthly student loan debt payments suddenly had affordable monthly payments, or, due to their financial circumstances, no monthly payments at all. DCWP has observed that IDR plans improve financial outcomes, which can lead to increased credit scores, more savings, and the ability to pay off other types of debt, including private student loans.

1. *IDR Income Exemption*

DCWP applauds ED on its proposal to raise the threshold for zero payments under the new Revised Pay As You Earn Repayment Plan ("REPAYE") plan from 150% to 225% of the federal poverty line. This action will increase the number of borrowers with low-incomes who can make zero-dollar monthly payments, a critical tool that can help these borrowers address and alleviate the stress that student loans place on fragile budgets. While DCWP cannot currently calculate the number of New Yorkers who would be immediately affected by this, DCWP research suggests the impact would be significant, since at least 1 million New York City residents owe $34 billion in student loan debt.[3] For an increased number of New Yorkers, making zero-dollar monthly payments would not only be transformational for their monthly balance sheets—it would also allow those individuals to invest in their financial and physical health. DCWP found that 49% of New Yorkers said that their student loan debt affected major life choices such as purchasing a home, starting a business, seeking medical care, or saving for retirement.[4]

While this change will make student loan repayments more manageable for many New Yorkers, it will also leave out millions who are not in a position to make expensive monthly payments. ED should take steps to more fairly determine who should be making student loan payments. DCWP

[1] Weighed Down: New Yorkers Share How Student Loan Debt is Affecting Their Lives, accessed January 19, 2023 at https://www1.nyc.gov/assets/dca/downloads/pdf/partners/StudentLoanDebtSurvey-Report-2021.pdf.
[2] Ibid.
[3] Student Loan Borrowing Across NYC Neighborhoods, accessed January 19, 2023 at https://www.newyorkfed.org/medialibrary/media/outreach-and-education/community-development/credit-conditions/student-loan-borrowing-nyc-neighborhoods.pdf
[4] Weighed Down: New Yorkers Share How Student Loan Debt is Affecting Their Lives, accessed January 19, 2023 at https://www1.nyc.gov/assets/dca/downloads/pdf/partners/StudentLoanDebtSurvey-Report-2021.pdf.

believes that those who are not making a living wage should not have to make student loan payments while on an IDR plan. The revamped REPAYE plan fails to meet this principle.

Many social scientists point out that the national poverty line is far below the living wage, especially for those with children.[5] This gap leaves the implicit assumption that millions deemed "above poverty" can manage student loan payments with their incomes. This could not be further from their daily realities and is especially acute in areas with high costs of living like New York City. For instance, placement in a New York City childcare center for an infant costs over $21,000 per year—more than three times as much as in-state tuition at The City University of New York and more than the median rent in every borough.[6] Furthermore, according to the Massachusetts Institute of Technology, the living wage for an adult living in Manhattan working full time (2,080 hours a year) with one child is approximately $43/hour.[7] 225% of the poverty line for a two-person household is equivalent to approximately $21/hour, or roughly half the living wage for a Manhattan resident with a child.[8] These numbers are similar for other NYC boroughs.

DCWP encourages ED to ensure that individuals who do not make a living wage not be forced to make payments on their IDR plans. To do this effectively, ED must take into account the cost of living in different areas of the United States. It must also accurately calculate the true cost of childcare.

2. *Repayment Differences for Undergraduate and Graduate Borrowers*

ED's proposal to lower payments for undergraduate student loan debt to 5% of discretionary income will be transformational, with many borrowers having their monthly payments slashed in half. Through its financial counseling and coaching programs, DCWP has seen how burdensome large monthly payments can be for individuals, and predicts that undergraduate borrowers will show improvements to financial health as a result of this change.

DCWP believes that this powerful decrease in monthly payments should not be limited to undergraduate borrowers. Instead, graduate borrowers should have the same access to the full REPAYE plan, including having their monthly payments capped at 5% of their monthly income. ED argues that on average, graduate school borrowers are more likely to have higher levels of debt and therefore less likely to benefit from ED's proposal to lessen repayment time for those with low principles. DCWP believes this logic is flawed. While some graduate borrowers would not benefit from reduced payment times, many graduate borrowers still would. This concept is the same for undergraduate borrowers. Furthermore, if the same benefits were extended to graduate students, these graduate borrowers would be incentivized by the REPAYE plan to take on less debt.

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[5] Lillian Kilduff, "How Poverty in the United States is Measured and Why it Matters," accessed January 19, 2023 at https://www.prb.org/resources/how-poverty-in-the-united-states-is-measured-and-why-it-matters/.
[6] NYC Under Three: A Plan to Make Child Care Affordable for New York City Families, accessed January 19, 2023 at https://comptroller.nyc.gov/reports/nyc-under-three-a-plan-to-make-child-care-affordable-for-new-york-city-families/#:~:text=NYC%20Under%20Three%20%3A%20Office%20of%20the%20New%20York%20City%20Comptroller%20Brad%20Lander.
[7] Living Wage Calculation for New York County, New York, accessed January 19, 2023 at https://livingwage.mit.edu/counties/36061.
[8] Calculated using 2023 federal Health and Human Services poverty guidelines for 2023, accessed January 19, 2023 at https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines.

ED also argues that graduate students have high incomes and thus would be less likely to benefit from the 5% payment cap. Again, this argument may be true for some but inaccurate for many. DCWP's Financial Empowerment Centers have counseled many graduate borrowers who are struggling to repay their loans, often due to the high cost of graduate school or because they entered important but relatively low-paying fields that require an advanced degree. These borrowers should be allotted the same benefits as undergraduate borrowers.

3. *Parent PLUS Loans*

DCWP is highly concerned that Parent PLUS loans were largely unaddressed by the proposed rules. DCWP has observed that Parent PLUS loans remain a significant challenge for New Yorkers, with the agency finding that 21% of New York City student loan borrowers hold debt (including Parent PLUS) for a child's education.[9] Furthermore, Parent PLUS loans have a track record of putting families into deep financial distress. They carry higher interest rates than other types of federal student loans, there is virtually no cap on the amount of debt parents can take out, and there are few mechanisms to educate parents on the terms and consequences of Parent PLUS loans and safeguards to prevent parents who are unlikely to pay back loans while maintaining financial health.[10] Furthermore, research shows that Black individuals are more likely to take out PLUS loans.[11]

Repayment options for Parent PLUS borrowers are limited and remain sub-par relative to other federal types of student loans. The only IDR plan Parent PLUS borrowers have access to is the Income Contingent Repayment ("ICR") plan. ICR is the most expensive IDR plan—requiring borrowers to pay 20% of discretionary income, instead of 10% for other IDR plans and 5% for the new REPAYE plans for undergraduate debt, and take 25 years to pay down, instead of 20 years for other IDR plans, including the revamped REPAYE plan. Given that Parent PLUS loan holders are older, they are more likely to receive public benefits, such as social security payments, which can be garnished for failure to repay loans, and have other dependents who rely on their income and are thus impacted as well.

DCWP believes that it is critical for Parent PLUS holders to have better options for repayment. Optimally, DCWP suggests that Parent PLUS holders be given the option to be put on the new REPAYE plans, with the requirement to pay 5% of discretionary income, matching the percentage for undergraduate loan holders. If ED deems this impossible, the ICR plan should be improved to allow for a maximum 10% discretionary income payment and 20-year repayment period, which would match other IDR plans.

4. *IDR Awareness*

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[9] Weighed Down: New Yorkers Share How Student Loan Debt is Affecting Their Lives, accessed January 19, 2023 at https://www1.nyc.gov/assets/dca/downloads/pdf/partners/StudentLoanDebtSurvey-Report-2021.pdf.
[10] Interest Rates and Fees for Federal Student Loans, accessed January 19, 2023 at https://studentaid.gov/understand-aid/types/loans/interest-rates; Rachel Fishman, "The Wealth Gap PLUS Debt," accessed January 19, 2023 at https://www.newamerica.org/education-policy/reports/wealth-gap-plus-debt/.
[11] Ibid.

DCWP applauds ED's efforts to increase enrollment in IDR plans, including automatically placing those who are at least 75 days delinquent on their loan payments in an IDR plan and helping individuals more easily select the best repayment plan for them.

DCWP suggests that ED strategically ensure that all those who would benefit from IDR plans be enrolled. Currently, about 30% of borrowers are enrolled in IDR plans.[12] DCWP believes that many more people could benefit. ED should think creatively, not only through technical rule changes, but also through outreach, about how it can work with universities, nonprofits, local and state governments, and other stakeholders that frequently interact with student loan borrowers to raise awareness of IDR plans in advance of the pause on student loan payments ending and the new REPAYE plan and IDR rules being implemented. Additionally, it is critical that ED ensure that loan servicers are disseminating proper information and guidance to student loan borrowers.

5. *Negative Amortization*

One significant downside of currently-designed IDRs (or other alternate repayment plans) is the possibility of negative interest amortization, which is why DCWP is very supportive of ED's proposed change to eliminate this. When monthly payments dip low enough that interest exceeds the amount, unpaid interest can become capitalized and added to the principal balance of the loan. DCWP has seen firsthand how negative interest amortization affects its clients. Many of DCWP's Financial Empowerment Center clients make a good faith effort to repay student loans by making monthly IDR payments yet see their loan balances balloon with interest.

Furthermore, DCWP research shows that in New York City, a disproportionate percentage of Black residents have student loan debt, and that Black and Latino/a residents are more likely to struggle repaying their student loan debt.[13] DCWP believes that ED's proposed rules to reduce the burden of ballooning interest payments will significantly aid Black and Brown communities.

ED's proposed change to eliminate negative amortization will be a tremendous benefit to student loan borrowers—making it easier for individuals to manage their debt and rewarding borrowers who make payments pursuant to their IDR plan.

6. *Conclusion*

ED has taken bold and ambitious steps to improve the IDR program through its proposed rule changes and revised REPAYE plan. Millions nationwide will likely have their monthly student loan payments cut in half, and many for the first time will have a realistic path toward fully paying off their student loan debt while maintaining a sustainable financial outlook for themselves and their families.

Despite these improvements, some borrowers will be unnecessarily left out of the improvements, such as graduate and Parent PLUS borrowers, and others will remain saddled with unaffordable

[12] Travis Plunkett, Regan Fitzgerald, Brian Denten, and Lexi West, "Upcoming Rule-Making Process Should Redesign Student Loan Repayment," accessed January 19, 2023 at https://www.pewtrusts.org/en/research-and-analysis/articles/2021/09/24/upcoming-rule-making-process-should-redesign-student-loan-repayment.
[13] Ibid.; Student Loan Debt Distress Across NYC Neighborhoods, accessed January 19, 2023 at https://www1.nyc.gov/assets/dca/downloads/pdf/partners/StudentLoanDebtSurvey-Report-2021.pdf.

monthly payments, especially borrowers with low and moderate income with children, and/or those who live in areas of the country with higher costs of living. ED should take steps to ensure that these groups are better accounted for in the proposed changes.

DCWP looks forward to the publication of the final set of rules and spreading the great news regarding the IDR program's improvement.

Respectfully Submitted,

Vilda Vera Mayuga
Commissioner, New York City Department of Consumer and Worker Protection