

Biden Administration Executive Actions Resulting in Modifications for the Federal Student Loan Programs

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Outstanding federal student loan debt exceeds \$1.6 trillion and is owed by about 45 million borrowers. Since taking office, the Biden Administration has taken numerous actions to address student loan debt. These actions have ranged in scope (both in terms of the borrower populations affected and associated modification costs), their rationales, and the avenues through which they were taken (e.g., formal rulemaking procedures, issuance of guidance). One effect of these actions is they have resulted in changes in the costs of outstanding federal student loans, measured in terms of the value in today's dollars of a direct loan or loan guarantee's future cash flows. Opponents of these actions emphasize the extent of cost increases, while supporters contend that these actions help address borrower difficulty in managing and repaying student loan debt.

The Department of Education's (ED's) Office of Federal Student Aid (FSA) annually reviews outstanding federal student loans to ensure that, as required by the Federal Credit Reform Act of 1990 (FCRA), enough budget authority is obligated to cover cost increases resulting from action that fits the category of a *modification*. A modification is government action—whether resulting from new legislation or an exercise of existing agency discretion—that changes direct loans' or loan guarantees' costs. FSA reports modifications and their costs in its annual reports. Annual reports published for FY2021–FY2024 identify numerous modifications (including one that resulted from a change in statute) for which FSA calculated a change in the costs of outstanding student loans. Most of these resulted in *modification costs* (i.e., cost increases). The remainder resulted in *downward modification costs* (i.e., cost savings).

Actions that resulted in modification costs include the following:

- multiple extensions of the COVID-19-related loan deferral (the *payment pause*);
- the announcement of a COVID-19-related, broad-based student loan debt relief policy;
- waivers of Public Service Loan Forgiveness (PSLF) program and income-driven repayment plan rules;
- regulatory amendments to expand borrower eligibility for a number of existing student loan forgiveness and discharge options, such as total and permanent disability discharge, closed school discharge, borrower defense to repayment, and PSLF; and
- regulatory amendments resulting in the creation of the Saving on Valuable Education (SAVE) repayment plan.

ED recognized downward modification costs after the Supreme Court ruled in June 2023 that the COVID-19-related, broad-based student loan debt relief policy exceeded the Secretary of Education's statutory authority. ED also reported downward modification costs due to transitioning student loan debt collection services from private collection agencies to Business Process Operations vendors.

ED estimated that modification costs in the federal student loan programs totaled about \$77 billion in FY2021 and \$450 billion in FY2022. In FY2023, ED recognized a total \$207 billion downward modification cost. During FY2021–FY2024, ED's single largest modification cost resulted from the announcement of the COVID-19-related, broad-based debt relief policy, totaling \$353 billion. In the same period, the single largest downward modification cost, a \$333 billion savings, resulted from the Supreme Court's vacatur of that broad-based debt relief policy.

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Introduction

Outstanding federal student loan debt exceeds \$1.6 trillion and is owed by about 45 million borrowers.¹ Since taking office, the Biden Administration has taken various actions to address student loan debt. These actions have ranged in scope (both in terms of borrower populations affected and associated modification costs), rationales, and the avenues through which they were taken (e.g., formal rulemaking procedures, issuance of guidance). A primary criticism of many of the actions the Biden Administration has taken relate to these actions' costs to the federal government.² In contrast, supporters contend that these actions help address borrower difficulty in managing and repaying student loan debt.³

This report compiles executive actions taken during the Biden Administration that have affected the costs of outstanding federal student loans. It begins by briefly describing relevant federal student loan programs. It then explains the methodology CRS used to compile the list of executive actions. Next, the report discusses accounting for the costs of federal student loan programs, including discussion of the Federal Credit Reform Act of 1990 (FCRA) because CRS's methodology relies on how the U.S. Department of Education (ED) accounts for the costs of the student loan programs under this act. Finally, the report lists and describes executive actions taken in FY2021–FY2024 that ED recognized as affecting the cost of outstanding federal student loans and provides ED's cost estimate for each action. **Table 1** summarizes each of these actions and their modification costs. **Table 2** presents net modification costs for the relevant federal student loan programs for FY2021–FY2023.⁴

Relevant Federal Student Loan Programs

This report describes executive actions affecting outstanding federal student loans made under programs covered by FCRA.⁵ The two primary federal student loan programs covered by FCRA are authorized under Title IV of the Higher Education Act of 1965 (HEA): the Direct Loan program and the Federal Family Education Loan (FFEL) program.⁶ ED also administers the Teacher Education Assistance for College and Higher Education (TEACH) Grant, authorized

¹ U.S. Department of Education (ED), Office of Federal Student Aid (FSA), Federal Student Aid Data Center, "Portfolio by Borrower Location and Age," data as of September 30, 2024, <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/Portfolio-by-Age.xls> (accessed December 9, 2024).

² See, for example, Committee for a Responsible Federal Budget, *The Total Cost of Student Debt Cancellation*, April 29, 2024, <https://www.crfb.org/blogs/total-cost-student-debt-cancellation#:~:text=Including%20the%20Biden%20Administration's%20new,over%20the%20nation's%20entire%20history.>

³ See, for example, Sarah Sattlemeyer, Tia Caldwell, and Sophie Nguyen, *Best Laid (Repayment) Plans*, New America, Brief, May 10, 2023, <https://www.newamerica.org/education-policy/briefs/best-laid-repayment-plans/>.

⁴ Net modification costs for FY2024 are not presented in **Table 2** because ED's annual budget justification to Congress for FY2026—the document in which these figures would be available—was not available at the time of this report's publication.

⁵ Part E, Title IV of the Higher Education Act of 1965 (HEA) authorizes the Perkins Loan program. Institutions of higher education (IHEs) previously made loans under this program using a combination of IHE and federal capital contributions. Perkins Loans are now held by IHEs (about \$1.4 billion owed by 530,000 borrowers) and by ED (about \$2.0 billion owed by about 590,000 borrowers). (CRS email communication with ED, March 25, 2024.) ED does not account for the cost of Perkins Loans under the FCRA (discussed below). See, for example, Office of Management and Budget, *Credit Supplement: Budget of the U.S. Government Fiscal Year 2025*, at iii, 2, 71-72 (providing "summary information about Federal direct loan and loan guarantee programs subject to the Federal Credit Reform Act (FCRA) of 1990" including ED programs but not including the Perkins Loan program).

⁶ Higher Education Act of 1965, 20 U.S.C. §§1001-1161aa-1.

under HEA Title IV, and the Health Education Assistance Loan program, authorized under the Public Health Service Act (PHSA), and accounts for the cost of both programs under FCRA. A description of each program is provided below and includes the most recent data available regarding outstanding loan balances and program participation.

The William D. Ford Federal Direct Loan (Direct Loan) Program

The primary federal student loan program currently in operation is the Direct Loan program, which is authorized under HEA Title IV, Part D. Under this program, the federal government makes loans using federal capital (i.e., funds from the U.S. Treasury). Once made, outstanding loans constitute an asset of the federal government. ED holds all Direct Loan program loans and is responsible for administering the program. Many day-to-day administrative functions are fulfilled by contracted loan servicers.

Individuals may borrow four types of loans through the Direct Loan program:

- **Direct Subsidized Loans.** These loans are available only to undergraduate students⁷ who demonstrate financial need. Direct Subsidized Loans have an interest subsidy (i.e., interest that is not charged, or is only partially charged) that applies during an in-school period when a borrower is enrolled in an eligible program on at least a half-time basis, a six-month grace period that borrowers receive prior to entering repayment on their loans, periods of authorized deferment, and certain other periods.
- **Direct Unsubsidized Loans.** These loans are available to undergraduate students, graduate students, and professional students, without regard to the student's financial need. Direct Unsubsidized Loans generally do not have an interest subsidy.
- **Direct PLUS Loans.** These loans are available to graduate and professional students, and to the parents of dependent undergraduate students. They are available without regard to financial need and generally do not have an interest subsidy.
- **Direct Consolidation Loans.** These loans allow individuals who have at least one loan borrowed through either the Direct Loan program or the FFEL program (described below) to borrow a new loan and use the proceeds to pay off their existing federal student loan obligations, including loans that are in default. Direct Consolidation Loans are available without regard to financial need.

As of September 30, 2024, about \$1.5 trillion in Direct Loans, borrowed by or on behalf of 38.2 million individuals, was outstanding.⁸

The FFEL Program

The FFEL program is authorized under HEA Title IV, Part B. While the HEA no longer authorizes new loans to be made under the program, previously borrowed loans remain outstanding and

⁷ Direct Subsidized Loans were once available to graduate and professional students for periods of instruction beginning prior to July 1, 2012. The Budget Control Act of 2011 (BCA; P.L. 112-25) eliminated the availability of Direct Subsidized Loans to graduate and professional students for periods of instruction beginning on or after July 1, 2012.

⁸ ED, Office of Federal Student Aid (FSA), Federal Student Aid Data Center, "Federal Student Aid Portfolio Summary," <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls>.

borrowers remain responsible for repaying them. These loans were made with private (i.e., nonfederal) capital, and the federal government guarantees lenders against loss due to borrower default, death, permanent disability, and, in limited circumstances, bankruptcy. Loans may be held by private lenders, guaranty agencies (GAs), or ED. Private lenders, GAs, and ED (and its contracted loan servicers) may be responsible for administering day-to-day aspects of the program, depending on which of them holds the loans.⁹ A substantially similar set of the four types of loans that are available through the Direct Loan program were available under the FFEL program.

As of September 30, 2024, private lenders held about \$65.8 billion in FFEL loans, representing debt borrowed by or on behalf of about 2.4 million individuals; GAs held \$20.6 billion, representing debt borrowed by or on behalf of about 860,000 individuals; and ED held about \$79.1 billion, representing debt borrowed by or on behalf of between 2.1 million and 4.7 million individuals.¹⁰

The Health Education Assistance Loan (HEAL) Program

The HEAL program is authorized under the PHSA. While the PHSA no longer authorizes new loans to be made under the program, HEAL program loans remain outstanding and borrowers remain responsible for repaying them. These loans were made with private capital, and the federal government guarantees HEAL program loans against loss due to borrower default, death, permanent disability, and certain bankruptcies. Loans may be held and administered by private lenders or ED.¹¹

As of December 31, 2023, lenders held about \$26 million in these loans, representing debt for about 2,000 borrowers. As of February 29, 2024, ED held about \$295 million in these loans, representing debt for about 4,500 borrowers.¹²

The TEACH Grant Program

The TEACH Grant program is authorized under HEA Title IV, Part A.¹³ The program provides recipients with grants to pursue postsecondary coursework that leads to a certification in teaching. Recipients are required to teach for four years in a high-need field at an elementary or secondary school that serves low-income students within eight years of completing their course of study. If a recipient fails or refuses to fulfill their service requirement, ED converts their TEACH Grants into Direct Loan program Unsubsidized Loans, which must be repaid in full, including interest that would have accrued since the grants' disbursement. Though labeled a "grant program" in

⁹ For additional information, see ED, FSA, *FY2024 Annual Report*, November 14, 2024, p. 17, <https://www2.ed.gov/about/reports/annual/2023report/fsa-report.pdf> (hereinafter, "*FY2024 Annual Report*"); and CRS Report R46409, *Proposals to Extend CARES Act Provisions to Federal Student Loans Not Held by the Department of Education: Frequently Asked Questions* (June 10, 2020, version).

¹⁰ An individual borrower may have multiple FFEL program loans, held by multiple entities (i.e., some may be held by a private lender and others by a GA). Unduplicated borrower counts are not available in the source data CRS reviewed. See ED, FSA, Federal Student Aid Data Center, "Location of Federal Family Education Loan Programs Loans," <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/LocationofFFELPLoans.xls> ("[R]ecipients may be counted multiple times across varying loan statuses.").

¹¹ For additional information on loans made under this program, see CRS Report R46720, *Student Loan Programs Authorized by the Public Health Service Act: An Overview* (March 16, 2021, version).

¹² CRS communication with ED, Office of Legislation and Congressional Affairs, April 2, 2024.

¹³ For additional information on the TEACH Grant program, see CRS Report R46117, *Teacher Education Assistance for College and Higher Education (TEACH) Grants: A Primer* (October 8, 2024, version).

statute, ED accounts for the cost of the TEACH Grant program under FCRA because of the potential for conversion into the Direct Loan program.

In total, for award year (AY) 2008–2009 (the first year in which TEACH Grants were awarded) through AY2022–2023, ED has awarded 437,712 TEACH Grants totaling \$1.3 billion.¹⁴ ED estimated that, as of March 2019, 49% of all TEACH Grants were converted to Direct Unsubsidized Loans.¹⁵ ED estimates that for FY2025, about 24,000 individuals will receive TEACH Grants, totaling about \$73 million, and that about 52% of these awards will be converted to a Direct Unsubsidized Loan.¹⁶

Methodology

CRS compiled a list of executive actions for which the Biden Administration calculated an increase in the FCRA costs (i.e., modification costs) of outstanding federal student loans by reviewing annual reports of ED’s Office of Federal Student Aid (FSA), the office within ED tasked with administering the HEA Title IV federal student aid programs. Included in this list was one action that resulted from a change in statute for which the Biden Administration calculated an increase in the FCRA costs of outstanding federal student loans. HEA Section 141(c)(2) requires FSA to report annually on its performance. The report contains FSA’s consolidated balance sheet and related notes. The report also includes information on the cost of making or modifying federal student loans under the Direct Loan program, the FFEL program, and the HEAL program, as well as the TEACH Grant program during that fiscal year.

To list and quantify executive actions that resulted in modifications, CRS reviewed FSA annual reports beginning with FY2021, the fiscal year during which President Biden was sworn into office. While FSA published the FY2021 report during the Biden Administration, FY2021 itself spanned presidential administrations and some actions taken by the Trump Administration in FY2021 carried forward into and were implemented by the Biden Administration in the remainder of FY2021. As such, CRS included in this report all executive actions taken in FY2021 that resulted in modification costs, regardless of which administration initiated them. CRS’s review of FSA annual reports ended with the FY2024 report (the most recent available). Moreover, executive actions that result in the modification of outstanding federal student loans may also affect the terms of future loans and their estimated cost.¹⁷ This report discusses only the effects of executive actions on outstanding loans, as the FSA annual reports do not include estimated costs of executive actions on future loan cohorts.

The Federal Credit Reform Act

Congress authorizes federal financial assistance programs to accomplish a public purpose, such as pursuing a postsecondary education, by transferring money or property to a nonfederal

¹⁴ CRS analysis of ED, FSA, Title IV Grant Volume Reports, AY2008–2009 through AY2022–2023.

¹⁵ ED, *Report to Congress on the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program*, December 2019, p. 3, <https://www2.ed.gov/about/offices/list/ope/19-005630teachgrantreport.pdf>.

¹⁶ ED, President’s FY2025 Budget Request for the U.S. Department of Education, “TEACH Grants,” pp. 2-3, <https://www2.ed.gov/about/overview/budget/budget25/justifications/s-teach.pdf>.

¹⁷ For example, ED estimates a \$70.9 billion modification cost for its July 1, 2023, Final Rule amending the terms of the income-driven repayment plans. ED also estimates that the Final Rule yielded \$85.1 billion in additional costs for loan cohorts that will be disbursed in the future for award years 2024-2033. See ED, “Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program,” 88 *Federal Register* 43820, July 10, 2023 (hereinafter, “SAVE Plan Rule”).

recipient.¹⁸ Congress can extend financial assistance on varying terms. It can, for example, authorize an agency to make grants,¹⁹ which are awards of financial assistance that generally carry no repayment requirement. Congress may also establish a federal credit program; that is, one that makes a *direct loan* or a *loan guarantee*. A direct loan is “a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest.”²⁰ A loan guarantee is, with certain exceptions, “any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender.”²¹

Because an agency generally awards a grant without expectation of repayment, the cost to the federal government of a grant is usually the amount to be disbursed.²² An agency does not similarly gauge the cost of a direct loan or a loan guarantee. At the time that a federal agency makes a direct loan, it usually pays loan proceeds to or on behalf of a nonfederal recipient. Unlike a grant, a direct loan disbursement is made with an expectation of repayment.²³ Treating the amount disbursed as a direct loan’s cost would likely overstate its lifetime cost.²⁴ At the time a federal agency makes a loan guarantee, the agency commits to make payments to the lender in the future if, for example, the borrower of a guaranteed loan defaults in a manner that triggers the guarantee.²⁵ Before the guarantee is triggered, though, the government does not typically make payments to the guarantee holder.²⁶ Treating the lack of a disbursement by the government at commitment formation as a loan guarantee’s cost would likely understate its lifetime cost.²⁷

FCRA provides a framework for accounting for direct loan or loan guarantee costs to allow cost comparisons between and among credit and noncredit programs.²⁸ FCRA requires an agency to estimate the “cost” of a direct loan or loan guarantee commitment to the government.²⁹ A commitment’s cost is the agency’s estimate of the net present value of its long-term cash flows (i.e., amounts the agency expects to pay to and receive from a third party over the commitment’s

¹⁸ See 31 U.S.C. §6101(3).

¹⁹ See generally 20 U.S.C. §1070a (authorizing need-based Federal Pell Grants to certain low-income students).

²⁰ 2 U.S.C. §661a(1).

²¹ 2 U.S.C. §661a(3).

²² Securities and Exchange Commission—Recording of Obligation for Multiple-Year Contract, B-322160, 2011 WL 4586567, *2 (Comp. Gen. October 3, 2011) (“The recording statute,” 31 U.S.C. §1501(a)(1), “requires an agency to record the full amount of its contractual obligation against funds available at the time the contract was executed”).

²³ See 2 U.S.C. §661a(1).

²⁴ U.S. Government Accounting Office, *Credit Reform: Greater Effort Needed to Overcome Persistent Cost Estimation Problems*, GAO/AIMD-98-14, March 1998, p. 2, <https://www.gao.gov/assets/aimd-98-14.pdf> (explaining that, prior to enactment of FCRA, a “direct loan initially looked like a grant since the budget included as a cost the face value of a direct loan, ignoring that at least some part of the loan would be repaid”).

²⁵ 20 U.S.C. §1078(c).

²⁶ U.S. Government Accounting Office, *Credit Reform: Greater Effort Needed to Overcome Persistent Cost Estimation Problems*, GAO/AIMD-98-14, March 1998, p. 2, <https://www.gao.gov/assets/aimd-98-14.pdf> (explaining that, prior to FCRA, “loan guarantees looked free when they were made because the budget ignored the fact that some would result in default costs”).

²⁷ Ibid.

²⁸ Office of Management and Budget, *Analytical Perspectives: Budget of the U.S. Government Fiscal Year 2025, 2024*, p. 186 (“FCRA treatment allows the comparison of direct loans and loan guarantees to each other, and to other methods of delivering assistance, such as grants, on an apples-to-apples basis”).

²⁹ 2 U.S.C. §661a(5).

lifetime).³⁰ FCRA requires the agency to obligate existing budget authority to cover a commitment's cost when it is made.³¹

The cost of a direct loan or loan guarantee can change over time as compared to a prior cost estimate, becoming either more or less costly to the federal government. Changed costs can result from updates to the assumptions used to calculate an existing FCRA cost estimate.³² FCRA refers to these changes as “reestimates” and provides permanent, indefinite budget authority to cover reestimates that yield cost increases.³³ Changed costs can also result from government action that FCRA refers to as a “modification.”³⁴ A modification is “any Government action that alters the estimated cost of an outstanding direct loan” or “an outstanding loan guarantee” from its “current estimate of cash flows,” including “any action resulting from” “new legislation” or the “exercise of administrative discretion under existing law.”³⁵ Before modifying a commitment in a way that increases its cost from the prior estimate, an agency must obligate existing budget authority to cover the additional cost.³⁶ Each fiscal year, FSA reviews the cost of federal student loan cohorts—the grouping of loans or loan guarantees made during a particular fiscal year under a credit program—to account for any modifications made in that year that increased the cohort's cost from its prior estimate or to reflect savings when downward modification costs occur.³⁷

Actions Affecting Modification Costs: FY2021-FY2024

The following sections provide descriptions of executive actions and one congressional action resulting in Direct Loan, FFEL, HEAL, or TEACH Grant program modifications, as reported by FSA in its annual reports for FY2021 through FY2024. Summary descriptions of the relevant executive actions are presented according to the fiscal year in which they were reported, and then based on which of the covered programs they affected. Unless otherwise noted, this report uses the term *modification cost* to refer to an increase in a program's cost from its prior cost estimate as a result of a modification. This report uses the term *downward modification cost* to refer to a decrease in a program's cost (i.e., savings) as a result of a modification. **Table 1** summarizes these actions and their associated modification costs.

FY2021: Actions Affecting All Covered Programs

Loan Deferral Extension

On March 27, 2020, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act; P.L. 116-136). The CARES Act suspended interest accrual, monthly loan payments, and involuntary collections on all Direct Loan program loans and on ED-held FFEL

³⁰ Ibid. (requiring cost estimates to be expressed in terms of net present value).

³¹ 2 U.S.C. §661c(b).

³² Office of Management and Budget, Circular No. A-11: Preparation, Submission, and Execution of the Budget §185.6, revised August 2023.

³³ 2 U.S.C. §661c(f). While FSA annual reports quantify reestimates for outstanding federal student loans, this CRS report does not list reestimates.

³⁴ 2 U.S.C. §661a(9).

³⁵ Ibid.

³⁶ 2 U.S.C. §661c(e).

³⁷ *FY2024 Annual Report*, p. 205.

program loans through September 30, 2020. ED stated that these policies also applied to HEAL program loans held by ED.³⁸ In FY2021, the Trump Administration extended these policies through January 31, 2021. Subsequently, the Biden Administration extended these policies through January 31, 2022.³⁹ ED estimated that what it termed the “loan deferral extension” resulted in a modification cost of \$49.5 billion for the Direct Loan program, \$3.6 billion for the FFEL program, \$21 million for the TEACH Grant program, and \$1 million for the HEAL program.⁴⁰ It appears this term includes the suspension of monthly loan payments as well as the suspension of interest accrual and involuntary collections.⁴¹

FY2021: Actions Affecting the Direct Loan and FFEL Programs

Total and Permanent Disability Discharge Regulations

The HEA provides that a borrower’s liability to repay a Direct Loan or FFEL program loan is discharged upon ED’s determination that the individual has a total and permanent disability (TPD).⁴² A borrower may be determined to have a TPD based on (1) a qualifying health care professional’s certification that the borrower is unable to engage in any substantial gainful activity due to a physical or mental impairment that meets specified criteria, (2) documentation from the Social Security Administration (SSA) that the borrower qualifies for Social Security Disability Insurance or Supplemental Security Income benefits and meets other criteria with respect to those benefits, or (3) documentation from the Department of Veterans Affairs (VA) that the borrower has a service-connected disability that is 100% disabling or that they are totally disabled on the basis of unemployability.

Prior to November 26, 2019, ED occasionally obtained information from VA on borrowers who might qualify for a TPD discharge. ED would contact such borrowers to inform them of their potential eligibility for the discharge. A borrower could then apply for a TPD discharge by submitting an application to ED. On November 26, 2019, ED issued an Interim Final Rule (IFR) specifying that borrowers who ED identified as eligible for TPD discharge based on a VA data match would automatically receive a TPD discharge and that ED would not require additional documentation to discharge the borrower’s loans.⁴³

On August 23, 2021, ED adopted the IFR, with amendments, as a Final Rule. ED expanded the automatic TPD discharge process to eligible borrowers based on information obtained via a data match with SSA, clarified the process for ED to automatically discharge loans, and provided for

³⁸ ED, “Federal Student Aid Programs (Student Assistance General Provisions, Federal Perkins Loan Program, William D. Ford Federal Direct Loan Program, and Federal-Work Study Programs),” 85 *Federal Register* 79856, December 11, 2020.

³⁹ For additional information on these policies, see CRS Report R46314, *Federal Student Loan Debt Relief in the Context of COVID-19* (October 15, 2024, version).

⁴⁰ ED, FSA, *FY2021 Annual Report*, November 19, 2021, pp. 171, 177, 179, and 180, <https://studentaid.gov/sites/default/files/fy2021-fsa-annual-report.pdf> (hereinafter, “*FY2021 Annual Report*”).

⁴¹ The FY2021 annual report only refers to a “loan deferral extension” when reporting modification costs. Its narrative description of this FY2021 modification refers only to “loan repayment deferrals” but not suspensions of interest accrual and involuntary collections. The latter two actions likely affected loan cohort cash flows, in that, for example, they resulted in foregone interest accrual. The effects of the interest accrual and involuntary collections suspensions appear to be captured in the “loan deferral extension” modification cost, as no other modification category encompasses them.

⁴² HEA §§437 and 455(a)(1).

⁴³ ED, “Total and Permanent Disability Discharge of Loans Under Title IV of the Higher Education Act,” 84 *Federal Register* 65007, November 26, 2019.

the return of loan payments made on or after the date of ED's determination of a borrower's eligibility for automatic discharge.⁴⁴ ED estimated that the Final Rule resulted in a modification cost of \$18.7 billion for the Direct Loan program⁴⁵ and \$2.2 billion for the FFEL program.⁴⁶

FY2021: Actions Affecting the Direct Loan Program

Faith-Based Final Rule

On August 14, 2020, ED published a Final Rule amending Public Service Loan Forgiveness (PSLF) program regulations.⁴⁷ The PSLF program provides a Direct Loan borrower the opportunity to have any remaining balance of their Direct Loans forgiven if, on or after October 1, 2007, the borrower is employed full-time in certain public service jobs for 10 years and concurrently makes 120 qualifying loan payments.⁴⁸ Prior to the Final Rule, employment with employers that engaged in religious instruction, worship services, or proselytizing did not qualify for PSLF unless tasks performed by the borrower were unrelated to such activities. The Final Rule made such employment and associated activities PSLF-qualifying, so long as borrowers meet other program requirements (e.g., make 120 monthly payments).⁴⁹ ED estimated that this regulatory action resulted in a Direct Loan program modification cost of \$100 million.⁵⁰

FY2021: Actions Affecting the TEACH Grant Program

Regulatory Amendments

TEACH Grant recipients are required to teach for four years in a high-need field at an elementary or secondary school that serves low-income students within eight years of completing their course of study. If recipients do not fulfill their service requirement, their TEACH Grants are converted into Direct Loan program Unsubsidized Loans, which must be repaid in full, including interest that would have accrued since the grants' disbursement. On August 14, 2020, ED published a Final Rule amending TEACH Grant program regulations to "minimize" the number of TEACH Grants that are converted to Direct Unsubsidized Loans.⁵¹ Among other relevant provisions, the Final Rule clarified how TEACH Grant recipients may fulfill their service obligation, specified additional information TEACH Grant recipients will be provided regarding their service obligation, added new conditions under which a TEACH Grant recipient may receive a temporary suspension of the eight-year period for completing their service obligation, and established a

⁴⁴ ED, "Total and Permanent Disability Discharge of Loans Under Title IV of the Higher Education Act," 86 *Federal Register* 46972, August 23, 2021.

⁴⁵ *FY2021 Annual Report*, p. 171.

⁴⁶ *Ibid.*, p. 177.

⁴⁷ ED, "Federal Perkins Loan Program, Federal Work-Study Programs, Federal Supplemental Opportunity Grant Program, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, National Direct Student Loan Program, Teacher Education Assistance for College and Higher Education Assistance for College and Higher Education Grant Program, Federal Pell Grant Program, Leveraging Educational Assistance Partnership Program, and Gaining Early Awareness and Readiness for Undergraduate Programs," 85 *Federal Register* 49798, August 14, 2020 (hereinafter, "*Faith-Based Rule*").

⁴⁸ HEA §455(m).

⁴⁹ The Final Rule was promulgated in response to the Supreme Court decision in *Trinity Lutheran Church of Columbia, Inc. v. Comer* and the United States Attorney General's October 7, 2017, Memorandum on Federal Law Protections for Religious Liberty pursuant to Executive Order 13798. *Faith-Based Rule*, p. 49798.

⁵⁰ *FY2021 Annual Report*, p. 172.

⁵¹ *Faith-Based Rule*, p. 49798.

process to remediate grant-to-loan conversions in specified situations. ED estimated that this regulatory action resulted in a TEACH Grant program modification cost of \$24 million.⁵²

FY2022: Actions Affecting All Covered Programs

Loan Deferral Extension

In FY2022, ED extended the previously described “loan deferral extension” through December 31, 2022. ED estimated this action resulted in a modification cost of \$48.6 billion for the Direct Loan program, \$5.9 billion for the FFEL program, \$17 million for the TEACH Grant program, and \$1.4 million for the HEAL program.⁵³ As noted above, it appears that the “loan deferral extension” includes the suspension of payments as well as the suspension of interest accrual and involuntary collections.⁵⁴

FY2022: Actions Affecting the Direct Loan, FFEL, and TEACH Grant Programs

Broad-Based Debt Relief

On August 24, 2022, invoking the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act of 2003),⁵⁵ ED announced a “one-time student loan debt relief” policy “to address the financial harms of the [COVID-19] pandemic for low- and middle-income borrowers.”⁵⁶ Under the policy, the Biden Administration generally planned to cancel the following:

- up to \$10,000 in qualifying federal student loans for borrowers whose adjusted gross income (AGI) in 2020 or 2021 was less than \$125,000 (for individuals or married borrowers who file federal income taxes separately), or \$250,000 (for married couples filing jointly, heads of households, or qualifying widow(er)s); and
- an additional \$10,000, for up to a total of \$20,000, in qualifying student loans for borrowers who met the above criteria and received at least one Pell Grant in any amount at any point.⁵⁷

ED estimated that this policy resulted in a modification cost of \$337.3 billion for the Direct Loan program, \$16.1 billion for the FFEL program, and \$51 million for the TEACH Grant program.⁵⁸

The Supreme Court subsequently ruled that the policy exceeded the Secretary of Education’s statutory authority under the HEROES Act of 2003, thus precluding ED from granting student

⁵² ED, FSA, *FY2022 Annual Report*, January 23, 2023, p. 180, <https://www2.ed.gov/about/reports/annual/2022report/fsa-report.pdf> (hereinafter, “*FY2022 Annual Report*”).

⁵³ *FY2022 Annual Report*, pp. 185, 190, 193, and 194.

⁵⁴ See footnote 41.

⁵⁵ 20 U.S.C. §§1098aa-1098ee

⁵⁶ The White House, “FACT SHEET: President Biden Announces Student Loan Relief for Borrowers Who Need It Most,” press release, August 24, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/24/fact-sheet-president-biden-announces-student-loan-relief-for-borrowers-who-need-it-most/>.

⁵⁷ For additional details, see CRS Insight IN11997, *The Biden Administration’s One-Time Student Loan Debt Relief Policy under the HEROES Act of 2003* (July 10, 2023, version).

⁵⁸ *FY2022 Annual Report*, pp. 185, 190, and 193.

loan cancellation under the policy.⁵⁹ The downward modification costs (savings) associated with this preclusion are described later in this report.⁶⁰

Shift to Business Process Operations

Prior to November 8, 2021, ED-held student loan accounts were transferred to FSA-contracted private collection agencies (PCAs) for collections upon default.⁶¹ On November 8, ED cancelled its contracts with PCAs and recalled all borrower accounts⁶² to be handled by FSA's Debt Management and Collection System (DMCS).⁶³ In FY2022, ED transitioned previous PCA services to newly contracted entities known as Business Process Operations (BPO) vendors. ED estimated the shift of PCA services to BPO vendors⁶⁴ would result in a downward modification cost (savings) of \$9.1 billion in the Direct Loan program, \$600 million in the FFEL program, and \$2 million in the TEACH Grant program.⁶⁵

FY2022: Actions Affecting the Direct Loan and FFEL Programs

Income-Driven Repayment (IDR) Plan One-Time Account Adjustment

Upon obtaining a federal student loan, a borrower assumes a contractual obligation to repay the loan over time. Numerous federal student loan repayment plans, each with differing monthly payment structures and maximum repayment periods, are available to borrowers. IDR plans are a subset of student loan repayment plans, and several are available to borrowers.⁶⁶ While plan terms vary, they all have an overarching set of key features. The IDR plans cap a borrower's monthly payments at a specified percentage (e.g., 10%, 15%) of their discretionary income.⁶⁷ Because

⁵⁹ *Biden v. Nebraska*, 143 S. Ct. 2355, 2376 (2023).

⁶⁰ See footnote 94 and 95 and accompanying text.

⁶¹ Beginning March 20, 2020, it was not possible for borrowers with ED-held loans to default on their federal student loans due to the COVID-19 payment pause. Thus, from that time to November 8, 2021, no new borrower accounts were assigned to PCAs; although, PCAs were still responsible for assisting borrowers who sought to begin or continue default resolution arrangements.

⁶² Stephanie Eidelman, "The End of an Era: ED Officially Ends all Collection Agency Contracts; Recalls Accounts," *insideARM*, November 9, 2021, <https://www.insidearm.com/news/00047826-end-era-ed-officially-ends-all-collection/>.

⁶³ For additional information on federal student loan debt collections, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers* (October 15, 2024, version).

⁶⁴ As of the cover date of this report, BPOs are not performing any debt collection services. Initially this was confirmed through CRS communication with ED, Office of Legislation and Congressional Affairs, April 19, 2024. Subsequently, ED has stated that involuntary collection on defaulted loans "will not occur before 2025." Michael Stafford, "Biden Administration Pushes Collections of Defaulted Loans to After Election," *Politico*, October 10, 2024. Thus, as of the cover date of this report, ED and its contractors are not engaging in proactive collection activities such as making collection calls or sending billing statements to defaulted borrowers. However, borrowers may contact ED's Default Resolution Group to begin or continue default resolution arrangements.

⁶⁵ *FY2022 Annual Report*, pp. 186, 191, and 194.

⁶⁶ For information about the student loan repayment plans available to borrowers, including the terms of the various IDR plans, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers* (October 15, 2024, version).

⁶⁷ *Discretionary income* is the portion of borrower income that ED uses to calculate a borrower's monthly payment under an IDR plan. All of the IDR plans define discretionary income by excluding from borrower income an amount equal to a specified percentage of the federal poverty level (FPL) applicable to the borrower's family size. The percentage of the FPL and, thus, the amount of borrower income excluded, vary by IDR plan. 34 C.F.R. §685.209 (excluding from borrower income 225% of the applicable FPL for SAVE plan borrowers, 150% for IBR and PAYE plan borrowers, and 100% for ICR plan borrowers).

monthly payments are based on only a portion of a borrower's income, they may be as low as \$0 per month and negative amortization is permitted.⁶⁸ Under the IDR plans, borrowers may have any remaining outstanding balance on their qualifying federal student loans forgiven after making monthly payments for a specified time period under an IDR plan or certain other qualifying plans.⁶⁹ Typically, periods of deferment and forbearance and payments made on underlying loans that were repaid with a Consolidation Loan do not count toward the IDR-required repayment periods on the new Consolidation Loan.⁷⁰

On April 19, 2022, ED announced a one-time adjustment to borrower loan accounts to revise ED's count of a borrower's IDR-qualifying payments.⁷¹ Under the account adjustment, borrowers could receive IDR payment credit for specified periods of deferment or forbearance and for months in repayment prior to consolidation. Additionally, ED stated it would automatically forgive the loans of qualifying borrowers who had accumulated at least 20 or 25 years in repayment—the maximum repayment period for certain IDR plan participants—even if they were not currently enrolled in an IDR plan.⁷² ED stated that the account adjustment would continue through summer 2024.⁷³ ED estimated that the IDR account adjustment resulted in a Direct Loan program modification cost of \$14.1 billion.⁷⁴ Although the IDR account adjustment applies to ED-held FFEL program loans and likely would result in a modification cost for the program, ED did not report an FFEL program modification cost associated with the policy.

FY2022: Actions Affecting the Direct Loan Program

PSLF Waiver

To qualify for PSLF, a Direct Loan borrower must be employed full-time in certain public service jobs for 10 years while concurrently making 120 qualifying payments on their loans on or after October 1, 2007. Prior to July 1, 2023,⁷⁵ PSLF regulations specified that qualifying payments were those that were

- separate monthly payments (i.e., not greater than the required monthly payment),

⁶⁸ *Negative amortization* occurs when required monthly payments are less than the amount of interest that accrues that month. Negative amortization may lead to an increase in a borrower's loan balance due to the accumulation of unpaid accrued interest.

⁶⁹ Prior to February 2024, borrowers could have their loans forgiven under the IDR plans after either 20 or 25 years' worth of payments, depending on the plan. In February 2024, the Administration accelerated implementation of its new IDR plan (the Saving on a Valuable Education [SAVE] plan, discussed later in this report), which forgives borrowers' qualifying loans after they have made as few as 10 years' worth of payments. ED, "Biden-Harris Administration Approves \$1.2 Billion in Loan Forgiveness for Over 150,000 SAVE Plan Borrowers," press release, February 21, 2024, <https://www.ed.gov/news/press-releases/biden-harris-administration-approves-12-billion-loan-forgiveness-over-150000-save-plan-borrowers>.

⁷⁰ Periods of economic deferment and the COVID-19 student loan payment pause count toward the IDR-required repayment periods.

⁷¹ ED, "Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs," press release, April 19, 2022, <https://www.ed.gov/news/press-releases/departments-education-announces-actions-fix-longstanding-failures-student-loan-programs>.

⁷² For additional information on the IDR account adjustment, see CRS Report R46314, *Federal Student Loan Debt Relief in the Context of COVID-19* (October 15, 2024, version).

⁷³ ED, FSA, "Payment Count Adjustments Toward Income-Driven Repayment and Public Service Loan Forgiveness Programs," <https://studentaid.gov/announcements-events/idr-account-adjustment>, accessed June 24, 2024.

⁷⁴ *FY2022 Annual Report*, p. 186.

⁷⁵ Current PSLF regulations are codified at 34 C.F.R. §685.219.

- paid on time (i.e., made within 15 days of the scheduled due date),
- paid in full,
- paid as scheduled (i.e., made when required, not during periods of deferment or forbearance), and
- made under a qualifying repayment plan (in most cases, an IDR plan).⁷⁶

Payments made on loans that were repaid with a Direct Loan program Consolidation Loan did not count toward the required 120 payments on the new Direct Consolidation Loan.⁷⁷ Borrowers must have been employed full-time in qualifying public service at the time they applied for and received forgiveness.⁷⁸

In October 2021, in response to the COVID-19 emergency, ED announced a series of limited-time waivers of PSLF program rules that were available to borrowers through October 31, 2022.⁷⁹ The waivers enabled borrowers to receive credit for past periods of repayment that would not otherwise qualify for PSLF. For example, under the waivers borrowers meeting the public service employment requirements could receive PSLF payment credit for periods of repayment even if payments were made according to a nonqualifying repayment plan, made late, or made for less than the amount due.⁸⁰ The waivers also allowed borrowers to receive credit for specified periods of deferment or forbearance.⁸¹ ED waived the requirement that borrowers be employed full-time in qualifying public service at the time of both application and forgiveness.⁸² ED considers those payments made on the loans repaid with a Direct Consolidation Loan as counting toward the required 120 PSLF payments on the new Direct Consolidation Loan.⁸³

While the waivers were available through October 31, 2022, the waivers' effects—additional PSLF qualifying payments—continue to affect borrower progress toward forgiveness. That is, borrowers who received credit for additional PSLF qualifying payments under the waivers retain those credits after October 31, 2022. Thus, borrowers could qualify for PSLF benefits sooner than they would without the waivers. ED estimated that the PSLF waivers resulted in a Direct Loan program modification cost of \$9.1 billion.⁸⁴

⁷⁶ 34 C.F.R. §685.219(c) (2022).

⁷⁷ 34 C.F.R. §685.219(c)(1)(iii) (2022).

⁷⁸ 34 C.F.R. §685.219(c)(1)(ii) (2022).

⁷⁹ ED, "U.S. Department of Education Announces Transformational Changes to the Public Service Loan Forgiveness Program, Will Put Over 550,000 Public Service Workers Closer to Loan Forgiveness," press release (archived), October 6, 2021, <https://www.ed.gov/news/press-releases/us-department-education-announces-transformational-changes-public-service-loan-forgiveness-program-will-put-over-550000-public-service-workers-closer-loan-forgiveness>.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid.

⁸³ Ibid. For additional information on these waivers, see CRS Report R46314, *Federal Student Loan Debt Relief in the Context of COVID-19* (October 15, 2024, version).

⁸⁴ *FY2022 Annual Report*, p. 185.

FY2022: Actions Affecting the FFEL Program

Shift of FFEL Special Allowance to the Secure Overnight Financing Rate (SOFR)

Maximum borrower interest rates on FFEL program loans are specified in statute and vary depending on when a loan was originally disbursed.⁸⁵ When the borrower interest rate is below the market-indexed lender rate, the federal government pays the lender a quarterly special allowance payment (SAP) equal to the difference.⁸⁶ For quarters ending on or before June 30, 2023, lenders had the option to receive SAPs based on the one-month London Inter Bank Offered Rate (LIBOR),⁸⁷ rather than the three-month commercial paper rate previously used to calculate SAPs.⁸⁸ On March 15, 2022, Congress and the President enacted the Adjustable Interest Rate (LIBOR) Act (Division U of the Consolidated Appropriations Act, 2022, P.L. 117-103). Section 109 of the statute required that lenders transition from having their SAPs calculated based on the one-month LIBOR to having their SAPs calculated based on the SOFR by July 1, 2023.⁸⁹ ED estimated that transition from LIBOR to SOFR resulted in an FFEL program modification cost of \$200 million.⁹⁰

Support for the Federal Student Loan Reserve Fund (Federal Fund)

On March 30, 2021, in response to the COVID-19 pandemic, ED announced the suspension of interest accrual and involuntary collections on GA-held FFEL program loans, retroactive to March 13, 2020.⁹¹ ED also announced the transfer to ED of some GA-held FFEL program loans that entered default on or after March 13, 2020, and the placement of such loans in good standing. ED considers the transferred loans to be ED-held and thus subject to the COVID-19-related interest, payment, and collections suspensions applicable to other ED-held loans.⁹² ED authorized GAs to reimburse themselves from their respective Federal Funds⁹³ for lost revenue they would

⁸⁵ 20 U.S.C. §1077a.

⁸⁶ 20 U.S.C. §1087-1. For loans made on or after April 1, 2006, lenders must rebate excess interest payments to the federal government when the borrower rate exceeds the lender rate. (20 U.S.C. §1087-1(b)(2)(I)(v)).

⁸⁷ This option was available for loans disbursed on or after January 1, 2000, and before July 1, 2010.

⁸⁸ ED, FSA, Dear Colleague Letter FP-12-02, “LIBOR-Based SAP under the Consolidated Appropriations Act, 2012,” February 27, 2012, <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2012-02-27/fp-12-02-subject-libor-based-sap-under-consolidated-appropriations-act-2012>.

⁸⁹ The Intercontinental Exchange stopped calculating and publishing most new LIBOR rates in June 2023.

⁹⁰ *FY2022 Annual Report*, p. 191.

⁹¹ ED, “Department of Education Announces Expansion of COVID-19 Emergency Flexibilities to Additional Federal Student Loans in Default,” press release, March 30, 2021, <https://www.ed.gov/news/press-releases/departments-education-announces-expansion-covid-19-emergency-flexibilities-additional-federal-student-loans-default>.

⁹² ED, FSA, Dear Colleague Letter GEN-21-03, “Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies” (updated May 24, 2021), <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2021-05-12/expansion-collections-pause-defaulted-ffel-program-loans-managed-guaranty-agencies-updated-may-24-2021>.

⁹³ When an FFEL borrower defaults, the loan holder files a default claim with a GA. Upon payment of the claim, which serves as payment for the holder’s losses stemming from borrower default, the holder assigns the defaulted loan to the GA, which in turn files a claim with ED for a reinsurance payment. Reinsurance payments are paid to a GA from its Federal Fund, which is a GA’s locally held federal reserve. 20 U.S.C. §1072a(c).

have realized but for these policies.⁹⁴ ED estimated these GA reimbursements resulted in an FFEL program modification cost of \$1.1 billion.⁹⁵

FY2023: Actions Affecting All Covered Programs

Loan Deferral Extension

In FY2023, ED extended the loan deferral through August 31, 2023.⁹⁶ ED estimated this action resulted in a modification cost of \$23.3 billion for the Direct Loan program, \$2.6 billion for the FFEL program, \$9.3 million for the TEACH Grant program, and \$900,000 for the HEAL program.⁹⁷ As noted previously, it appears that the “loan deferral extension” includes the suspension of payments as well as the suspension of interest accrual and involuntary collections.⁹⁸

Broad-Based Debt Relief Reversal

On June 30, 2023, the Supreme Court ruled that ED’s broad-based debt relief policy described earlier in this report exceeded the Secretary of Education’s statutory authority under the HEROES Act of 2003, thus precluding ED from cancelling student loans under the policy.⁹⁹ ED estimated this resulted in a downward modification cost (savings) of \$319.9 billion in the Direct Loan program, \$12.9 billion in the FFEL program, and \$49.3 million in the TEACH Grant program.¹⁰⁰

FY2023: Actions Affecting the Direct Loan, FFEL, and TEACH Grant Programs

The Fresh Start and On Ramp Policies

On April 6, 2022, ED announced a policy known as the Fresh Start initiative to “eliminate the negative effects of default for borrowers who defaulted on their federal student loans prior to the

⁹⁴ ED, FSA, Dear Colleague Letter GEN-21-03, “Expansion of Collections Pause to Defaulted FFEL Program Loans Managed by Guaranty Agencies” (updated May 24, 2021), <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2021-05-12/expansion-collections-pause-defaulted-ffel-program-loans-managed-guaranty-agencies-updated-may-24-2021>.

⁹⁵ *FY2022 Annual Report*, p. 191.

⁹⁶ On November 22, 2022, ED extended the loan deferral through 60 days after either (1) ED implemented its August 2022 broad-based student loan debt relief policy, (2) litigation regarding the debt relief policy was resolved, or (3) June 30, 2023. On June 3, 2023, Congress and the President enacted the Fiscal Responsibility Act of 2023 (P.L. 118-5), which specified that the loan deferral would no longer be effective 60 days after June 30, 2023. ED then clarified that the end of the deferral period was August 30, 2023. ED, “Biden-Harris Administration Continues Fight for Student Debt Relief for Millions of Borrowers, Extends Student Loan Repayment Pause,” press release, November 22, 2022, <https://www.ed.gov/news/press-releases/biden-harris-administration-continues-fight-student-debt-relief-millions-borrowers-extends-student-loan-repayment-pause>; and ED, FSA, “Restarting Student Loan Payments,” <https://studentaid.gov/manage-loans/repayment/prepare-payments-restart>, accessed June 24, 2024.

⁹⁷ ED, FSA, *FY2023 Annual Report*, November 16, 2023, p. 196, 201, 202, and 203, <https://www2.ed.gov/about/reports/annual/2023report/fsa-report.pdf> (hereinafter, “*FY2023 Annual Report*”).

⁹⁸ See footnote 41.

⁹⁹ *Biden v. Nebraska*, 143 S. Ct. 2355 (2023). For additional information, see CRS Legal Sidebar LSB10997, *Supreme Court Invalidates Student Loan Cancellation Policy Under the HEROES Act* (2023).

¹⁰⁰ *FY2023 Annual Report*, pp. 197, 200, and 202. The *FY2023 Annual Report* indicates that the downward modification costs in the TEACH Grant program were \$49.3 billion. CRS confirmed with ED that this amount is an error. The downward modification costs in the TEACH Grant program were \$49.3 million. CRS communication with ED, Office of Legislation and Congressional Affairs, April 29, 2024.

pandemic payment pause.”¹⁰¹ Under the policy, qualifying borrowers of defaulted Direct Loan and FFEL program loans had several Title IV student aid benefits temporarily restored (through October 1, 2024) that are otherwise unavailable when a borrower is in default on their loan. For example, ED automatically restored defaulted borrowers’ eligibility for Title IV federal student aid and is reporting defaulted loans to consumer reporting agencies as “current” rather than “in collections.” Borrowers who received these benefits and took additional steps could permanently retain the benefits and were to have their loans returned to in-repayment status.¹⁰²

On June 30, 2023, to facilitate transition to repayment status for all borrowers following the COVID-19 payment pause, ED announced a 12-month On Ramp to repayment. For October 1, 2023, through September 30, 2024, ED did not consider borrowers who missed monthly payments due on their loans to be delinquent or report them as such to consumer reporting agencies. ED also did not place such borrowers in default status or refer their loans for debt collection.¹⁰³

ED estimated that the Fresh Start and On Ramp policies resulted in a modification cost of \$2.2 billion for the Direct Loan program, \$3.0 billion for the FFEL program, and \$1.5 billion for the TEACH Grant program.¹⁰⁴

FY2023: Actions Affecting the Direct Loan and FFEL Programs

TPD Discharge Regulations

A borrower’s liability to repay a Direct Loan or FFEL program loan is discharged if ED determines that the individual has a TPD;¹⁰⁵ a borrower may show they have a TPD by submitting relevant documentation to ED. Prior to July 1, 2023, ED granted a conditional discharge for a TPD discharge approved on the basis of a physician’s certification or an SSA disability determination. During the three-year period that began on the discharge date, a borrower was subject to having their loans reinstated in four circumstances, including if the borrower had annual earnings above specific thresholds or obtained a new Direct Loan or TEACH Grant.¹⁰⁶ On November 1, 2022, ED published a Final Rule expanding the types of health care professionals who may certify a borrower as having a TPD and expanding the types of SSA documentation that can be used to show an individual has a TPD.¹⁰⁷ Additionally, the Final Rule eliminated all but

¹⁰¹ ED, Office of Postsecondary Education, Dear Colleague Letter GEN-22-13, “Federal Student Aid Eligibility for Borrowers with Defaulted Loans,” August 17, 2022, <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-08-17/federal-student-aid-eligibility-borrowers-defaulted-loans>.

¹⁰² For additional information on the Fresh Start initiative, see CRS Report R46314, *Federal Student Loan Debt Relief in the Context of COVID-19* (October 15, 2024, version).

¹⁰³ ED, “FACT SHEET: President Biden Announces New Actions to Provide Debt Relief and Support for Student Loan Borrowers,” press release, June 30, 2023, <https://www.ed.gov/news/press-releases/fact-sheet-president-biden-announces-new-actions-provide-debt-relief-and-support-student-loan-borrowers>.

¹⁰⁴ *FY2023 Annual Report*, pp. 198 and 202.

¹⁰⁵ HEA §§437 and 455(a)(1).

¹⁰⁶ The other two circumstances in which an individual would have their loans reinstated were if (1) they received a notice from SSA that they are no longer disabled or that their next scheduled disability review will be sooner than five to seven years from the date of the borrower’s most recent SSA disability determination during the three-year monitoring period or (2) they failed to return any Direct Loan or TEACH Grant disbursements made between the TPD discharge application date and the discharge date.

¹⁰⁷ See, for example, ED, “Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions; Federal Perkins Loan Program; Federal Family Education Loan Program; and William D. Ford Federal Direct Loan Program,” 87 *Federal Register* 65904, pp. 66059-66060, November 1, 2022 (hereinafter, “November 1, 2022, Final Rule”).

one of the bases (receipt of a new Direct Loan or TEACH Grant) for reinstating a borrower's loan during the three-year monitoring period. ED estimated that these regulatory amendments resulted in a Direct Loan program modification cost of \$4.4 billion.¹⁰⁸ Although the regulatory changes apply to FFEL program loans and likely would result in a modification cost for the program, ED did not report an FFEL program modification cost associated with the changes.

Closed School Discharge Regulations

A borrower's liability to repay a loan is discharged if the borrower (or the student on whose behalf a parent borrower took out a Parent PLUS loan¹⁰⁹) does not complete the program of study for which the loan was made because the school the borrower attended has closed.¹¹⁰ Prior to July 1, 2023, ED's standards for evaluating whether a borrower was eligible for a closed school discharge depended on when the loan was disbursed.¹¹¹ Generally, for loans made before July 1, 2020, a borrower qualified for a closed school discharge if the school the student attended closed either while the student was enrolled or within 120 days of the student withdrawing.¹¹² Typically, for loans made on or after July 1, 2020, a borrower qualified for a closed school discharge if the school the student attended closed either while the student was an enrolled student or within 180 days of the student withdrawing.¹¹³ In addition, for loans made for schools that closed on or after November 1, 2013, and before July 1, 2020, ED discharged borrowers' loans without them needing to submit an application if they did not re-enroll in an HEA-Title-IV-eligible institution within three years of the school's closure.¹¹⁴

On November 1, 2022, ED published a Final Rule amending closed school discharge rules to use uniform standards and procedures for all loans, regardless of disbursement date.¹¹⁵ Under the Final Rule, a borrower generally would qualify for a closed school discharge if the school the student attended closed either while the student was an enrolled student or within 180 days of the student withdrawing. The rule would also reinstate and expand the automatic discharge procedures. A borrower's loan would be automatically discharged if the borrower did not complete the program of study for which a loan was obtained at another branch or location of the school or through a teach-out agreement¹¹⁶ at another school. ED estimated that these regulatory amendments resulted in a Direct Loan program modification cost of \$3.7 billion.¹¹⁷ Although the regulatory changes apply to FFEL program loans and likely would result in a modification cost for the program, ED did not report an FFEL program modification cost associated with the changes. The November 1,

¹⁰⁸ *FY2023 Annual Report*, p. 197.

¹⁰⁹ For additional information on Parent PLUS Loans, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers* (October 15, 2024, version).

¹¹⁰ HEA §437(c).

¹¹¹ For additional information on the different closed-school discharge standards, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers* (October 15, 2024, version).

¹¹² 34 C.F.R. §685.214(c)(1)(i)(B).

¹¹³ 34 C.F.R. §685.214(c)(2)(i)(B).

¹¹⁴ 34 C.F.R. §685.214(c)(3)(ii).

¹¹⁵ November 1, 2022, Final Rule, pp. 66060-66062.

¹¹⁶ A *teach-out agreement* is "a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study if an institution, or an institutional location that provides one hundred percent of at least one program offered, ceases to operate before all enrolled students have completed their program of study." 34 C.F.R. §600.2.

¹¹⁷ *FY2023 Annual Report*, pp. 197.

2022, Final Rule was set to take effect on July 1, 2023, but federal court orders have stayed its effective date, preventing its implementation.¹¹⁸

FY2023: Actions Affecting the Direct Loan and TEACH Grant Programs

Saving on a Valuable Education Plan

As described previously, IDR plans are a subset of student loan repayment plans and several are available to borrowers.¹¹⁹ While plan terms vary, they all have an overarching set of key features. The IDR plans cap a borrower's monthly payments at a specified percentage (e.g., 10%, 15%) of their *discretionary income*.¹²⁰ In general, discretionary income is the portion of borrower income that ED excludes when determining a borrower's monthly payments for an IDR plan. More specifically, discretionary income is the amount by which a borrower's AGI exceeds a specified multiple of the federal poverty level (FPL) applicable to the borrower's family size.¹²¹ Because monthly payments are based on only a portion of a borrower's income, payments may be as low as \$0 per month, and *negative amortization* is permitted. Negative amortization occurs when required monthly payments are less than the amount of interest that accrues that month.¹²² Negative amortization may lead to an increase in a borrower's loan balance due to the accumulation of unpaid accrued interest.¹²³ Under the IDR plans, ED forgives any loan balance that remains outstanding after a specified maximum repayment period (e.g., 20 or 25 years).¹²⁴

On July 10, 2023, ED published a Final Rule to modify significantly one of the existing IDR plans, the Revised Pay As You Earn (REPAYE) plan, and name the modified plan the Saving on a Valuable Education (SAVE) plan.¹²⁵ The Final Rule took full effect on July 1, 2024,¹²⁶ but has since been enjoined by federal courts.¹²⁷ The SAVE plan may result in lower monthly payments for most borrowers enrolled in the plan and, if implemented, shorter maximum repayment periods for some borrowers.

¹¹⁸ *Career Colleges and Schools of Tex. v. U.S. Dep't of Educ.*, 98 F.4th 220, 256 (5th Cir. 2024) (directing the district court to "postpone the effective date of the borrower-defense and closed-school discharge provisions of the Rule pending final judgment"), *petition for cert. filed*, No. 24-413 (U.S. October 10, 2024).

¹¹⁹ For information about the student loan repayment plans available to borrowers, including the terms of the various IDR plans, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers* (October 15, 2024, version).

¹²⁰ 34 C.F.R. §685.209(b).

¹²¹ *Ibid.*

¹²² For more information, see CRS Report R47196, *Federal Student Loan Debt Cancellation: Policy Considerations*, p. 30 (July 27, 2022, version).

¹²³ *Ibid.*

¹²⁴ 34 C.F.R. §685.209(k).

¹²⁵ SAVE Plan Rule.

¹²⁶ *Ibid.*, p. 43821.

¹²⁷ In June 2024, the U.S. District Court for the Eastern District of Missouri preliminarily enjoined portions of the Final Rule. *Missouri v. Biden*, No. 4:24-cv-00520, 2024 WL 3104514, at *30 (E.D. Mo. June 24, 2024). The parties then appealed the district court's preliminary injunction. In August 2024, the U.S. Court of Appeals for the Eighth Circuit granted the plaintiffs a broader injunction pending appeal. *Missouri v. Biden*, No. 24-2332, 2024 WL 3738157, at *4 (8th Cir. August 9, 2024). A second district court preliminarily enjoined parts of the SAVE plan, but ED has obtained a stay of the injunction from the U.S. Court of Appeals for the Tenth Circuit. See Order, *Alaska v. U.S. Dep't of Educ.*, No. 24-3089 (10th Cir. June 30, 2024) (granting a stay pending appeal).

Under the previous REPAYE plan regulations, monthly payments were equal to one-twelfth of 10% of a borrower's discretionary income.¹²⁸ The prior rules defined discretionary income as the portion (if any) of a borrower's AGI that exceeded 150% of the FPL applicable to the borrower's family size or \$0, whichever was greater.¹²⁹ If a borrower's monthly payment did not cover all accrued interest for the month for certain loans, the REPAYE plan included an interest subsidy, and ED would not charge to the borrower all or part of the remaining accrued interest.¹³⁰ For borrowers whose student loan debt was obtained exclusively for undergraduate education, the REPAYE plan's maximum repayment period was 20 years.¹³¹ For borrowers whose student loan debt included any amounts obtained for graduate education, the REPAYE plan's maximum repayment period was 25 years.¹³²

Under the SAVE plan, borrowers will pay one-twelfth of 5%-10% of their annual discretionary income for monthly payments, depending on whether they borrowed for undergraduate education only, graduate education only, or a combination of both.¹³³ *Discretionary income* for purposes of the SAVE plan is the portion of a borrower's AGI that exceeds 225% of the FPL applicable to the borrower's family size.¹³⁴ All unpaid accrued interest that remains after ED applies a borrower's monthly payment to their loan balance will not be charged to the borrower.¹³⁵ Finally, a borrower's maximum repayment term will be tied to the amount originally borrowed. Borrowers whose original principal balance was less than or equal to \$12,000 will have a 10-year maximum repayment period. The maximum repayment period will increase by one year for each additional \$1,000 in original principal balance (e.g., a borrower's maximum repayment period would be 11 years if they borrowed between \$12,001 and \$13,000). For those who borrowed exclusively for undergraduate education, the maximum repayment period will not exceed 20 years regardless of original principal balance. For those who borrowed any amount for graduate education, the maximum repayment period will not exceed 25 years.¹³⁶

The Final Rule also makes more modest changes to the other IDR plans.¹³⁷ The Final Rule expands the types of deferment and forbearance periods that count toward the maximum repayment period under all IDR plans.¹³⁸ It counts those payments made on loans that were repaid by a borrower's Consolidation Loan as qualifying toward IDR forgiveness under specified circumstances.¹³⁹ The Final Rule also phases out some of the existing IDR plans and specifies that ED would place certain delinquent borrowers in the IDR plan that results in the lowest monthly payments for the borrower.¹⁴⁰

¹²⁸ 34 C.F.R. §685.209(c)(2)(i) (2022).

¹²⁹ *Ibid.*

¹³⁰ 34 C.F.R. §685.209(c)(2)(iii) (2022).

¹³¹ 34 C.F.R. §685.209(c)(5)(ii) (2022).

¹³² *Ibid.*

¹³³ SAVE Plan Rule, pp. 43901-43902.

¹³⁴ *Ibid.*, p. 43900. This calculation would result in a smaller portion of borrower income remaining for consideration as discretionary income as compared to other IDR plans and would thus result in lower monthly payments for all borrowers determined to have discretionary income. See footnote 67 (describing discretionary income calculations for other IDR plans).

¹³⁵ SAVE Plan Rule, p. 43902.

¹³⁶ *Ibid.*, pp. 43902-43903.

¹³⁷ *Ibid.*, p. 43820.

¹³⁸ *Ibid.*, p. 43903.

¹³⁹ *Ibid.*

¹⁴⁰ *Ibid.*, p. 43904.

In its FY2023 annual report, FSA estimated that the Final Rule resulted in a Direct Loan program modification cost of \$70.4 billion and a TEACH Grant modification cost of \$900 million.¹⁴¹

While parts of the Final Rule would apply to FFEL program loans, FSA did not list a separate FFEL program modification cost for these changes. Nonetheless, it appears the Direct Loan program modification of \$70.4 billion may include FFEL program modification costs, as it aligns closely with the modification cost estimated by ED in the regulatory impact analysis in the Final Rule, which included FFEL program loans.¹⁴²

FY2023: Actions Affecting the Direct Loan Program

Borrower Defense to Repayment and Arbitration Regulations

A borrower's liability to repay a loan is discharged in whole or in part, and previous loan payments are refunded, if the borrower (or the student on whose behalf a Direct PLUS Loan was made to a parent borrower) successfully asserts a borrower defense to repayment (BDR) of the loan. To successfully assert a BDR, a borrower must demonstrate that certain acts or omissions by their institution relate to the making of the borrower's loan and serve as a defense to repayment.¹⁴³

Prior to July 1, 2023, ED assessed BDR claims using three different standards and different claims procedures depending on when the loan was disbursed.¹⁴⁴ For some loan cohorts, both group and individual claims processes were available.¹⁴⁵ Under the group process, ED could discharge the loans of borrowers with common facts or claims through a single BDR proceeding. ED would apply its group determination to the loans of borrowers who had not filed individual applications. In addition to determining whether group claims were available, the date the loan was disbursed also determined the procedures used to calculate the relief provided to successful BDR claimants. For example, some procedures specified that the amount of loan discharge could not exceed the amount of financial harm suffered by the borrower on account of the institution's conduct,¹⁴⁶ while other procedures specified the amount of discharge could not exceed the amount of the loan and any associated costs and fees.¹⁴⁷

¹⁴¹ FY2023 Annual Report, pp. 197 and 202.

¹⁴² In the regulatory impact analysis of the Final Rule, ED estimated that the regulations as a whole would have a net federal budget impact "consisting of a modification of \$70.9 billion for loan cohorts through 2023 and estimated costs of \$85.1 billion for loan cohorts 2024 to 2033." SAVE Plan Rule, p. 43886. This estimate assumed that the Biden Administration's broad-based debt relief plan (debt relief plan) would be implemented, but that plan was subsequently vacated by the U.S. Supreme Court. SAVE Plan Rule, p. 43889. It is unclear whether the estimated modification cost of the SAVE Plan reported in FSA's annual report takes into account the Court's decision. Some third parties have estimated that the Supreme Court's decision invalidating the debt relief plan would result in a sizeable increase in the SAVE Plan estimated modification costs. See, for example, Junlei Chen, *Biden's New Income-Driven Repayment ("SAVE") Plan: Budgetary Cost Estimate Update*, Penn Wharton Budget Model, July 17, 2023, <https://budgetmodel.wharton.upenn.edu/issues/2023/7/17/biden-income-driven-repayment-budget-update>.

¹⁴³ HEA §437(c).

¹⁴⁴ See ED, "Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, and Teacher Education Assistance for College and Higher Education Grant Program," 81 *Federal Register* 75926, November 1, 2016; and ED, "Student Assistance General Provisions, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program," 84 *Federal Register* 49788, September 23, 2019.

¹⁴⁵ 34 C.F.R. §685.222(e)-(f).

¹⁴⁶ 34 C.F.R. §685.206(e)(12)(i).

¹⁴⁷ 34 C.F.R. §685.222(i)(8). For a description of each of the pre-July 1, 2023, BDR standards and procedures, see CRS (continued...)

On November 1, 2022, ED published a Final Rule specifying a single set of BDR claims standards, applicable to all BDR applications pending or received on or after July 1, 2023, regardless of the date a loan was disbursed.¹⁴⁸ The Final Rule also established a common set of claims procedures, including a group claims process.¹⁴⁹ Upon successfully asserting a BDR claim, a borrower will receive a discharge of the full amount of their applicable loans and will be entitled to have the full amount of payments made on their applicable loans refunded.¹⁵⁰ In addition, the Final Rule generally prohibits Direct Loan-participating institutions from entering into pre-dispute arbitration agreements with students with respect to BDR claims and from relying on such pre-dispute arbitration agreements (regardless of when those agreements were established), including with respect to “any class action related to” a BDR claim.¹⁵¹ ED estimated that these regulatory amendments resulted in a Direct Loan program modification cost of \$4.1 billion.¹⁵² Though the November 1, 2022, Final Rule was set to take effect on July 1, 2023, federal court orders have stayed its effective date, preventing its implementation.¹⁵³

PSLF Regulations

As discussed previously, to qualify for PSLF, on or after October 1, 2007, a Direct Loan borrower must be employed full-time in certain public service jobs for 10 years while concurrently making 120 qualifying payments on their loans. (See the “PSLF Waiver” section for discussion of regulations prior to July 1, 2023.)

On November 1, 2022, ED published a Final Rule, effective July 1, 2023, that incorporated aspects of the PSLF Waiver into PSLF program regulations and made other PSLF program changes.¹⁵⁴ Among other amendments, PSLF qualifying payments were expanded to include payments not made on time, payments made in installments that equal the full scheduled amount due, and months in specified periods of deferment or forbearance (e.g., economic hardship deferment, AmeriCorps national service forbearance).¹⁵⁵ For deferment and forbearance periods that do not count toward qualifying PSLF payments, a borrower may obtain credit toward the 120 qualifying monthly payments for those periods if they make additional payments meeting specified criteria.¹⁵⁶ The Final Rule also established a mechanism through which borrowers who consolidated any type of Direct Loan into a Direct Consolidation Loan may receive credit toward the 120 required payments on the new Consolidation Loan for payments made prior to consolidation.¹⁵⁷ The updated regulations eliminate the requirement that a borrower be employed

Report R44737, *The Closure of Institutions of Higher Education: Student Options, Borrower Relief, and Other Implications* (November 17, 2020, version).

¹⁴⁸ November 1, 2022, Final Rule, pp. 66066-66068.

¹⁴⁹ *Ibid.*, p. 66068.

¹⁵⁰ *Ibid.*, p. 66071. For additional information on the updated BDR standards and procedures, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers* (October 15, 2024, version).

¹⁵¹ November 1, 2022, Final Rule, pp. 66041-66042 and 66055-66058.

¹⁵² *FY2023 Annual Report*, p. 197.

¹⁵³ *Career Colleges and Schools of Tex. v. U.S. Dep’t of Educ.*, 98 F.4th 220, 256 (5th Cir. 2024) (directing the district court to “postpone the effective date of the borrower-defense and closed-school discharge provisions of the Rule pending final judgment”), *petition for cert. filed*, No. 24-413 (U.S. October 10, 2024).

¹⁵⁴ November 1, 2022, Final Rule, pp. 66063-66065.

¹⁵⁵ *Ibid.*, pp. 66064-66065.

¹⁵⁶ *Ibid.*, p. 66065.

¹⁵⁷ *Ibid.*

by a PSLF-qualifying employer at the time that forgiveness is granted.¹⁵⁸ ED estimated these regulatory changes resulted in a Direct Loan program modification cost of \$4.1 billion.¹⁵⁹

Interest Capitalization Regulations

The HEA specifies instances in which interest that has accrued and not been paid by a borrower may be capitalized (i.e., added to the outstanding principal balance of a borrower's loans). These instances include when a period of deferment ends¹⁶⁰ and upon loan consolidation.¹⁶¹ Prior to July 1, 2023, Direct Loan program regulations specified additional instances in which unpaid accrued interest was capitalized. These circumstances included, for example, when a borrower's loan entered repayment status, when a borrower's loan exited forbearance, and upon default.

The November 1, 2022, Final Rule eliminated all instances of interest capitalization that were specified in regulations but not in statute.¹⁶² These amendments became effective July 1, 2023. ED estimated these regulatory changes resulted in a Direct Loan program modification cost of \$3.5 billion.¹⁶³

FY2023: Actions Affecting the FFEL Program

Support for the Federal Student Loan Reserve Fund

As described previously, under ED's Fresh Start policy, qualifying borrowers of defaulted FFEL program loans, including those not held by ED, had several Title IV student aid benefits temporarily restored (through October 1, 2024) that are otherwise unavailable when a borrower is in default on their loan.¹⁶⁴ These temporary benefits included a pause on all involuntary collections. ED authorized GAs to reimburse themselves from the Federal Fund for lost revenue on GA-held FFEL program loans that they would have realized but for this policy.¹⁶⁵ ED estimated its authorization to GAs to reimburse themselves from the Federal Fund for lost revenues resulted in an FFEL program modification cost of \$700 million.¹⁶⁶

¹⁵⁸ For additional information about the amendments to PSLF regulations, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers* (October 15, 2024, version).

¹⁵⁹ *FY2023 Annual Report*, p. 197.

¹⁶⁰ See, for example, HEA §455(f)(1)(B).

¹⁶¹ HEA §428C(b)(1)(C).

¹⁶² November 1, 2022, Final Rule, pp. 66055-66073.

¹⁶³ *FY2023 Annual Report*, p. 197.

¹⁶⁴ For additional information on the Fresh Start initiative, see CRS Report R46314, *Federal Student Loan Debt Relief in the Context of COVID-19* (October 15, 2024, version).

¹⁶⁵ Reimbursements equal the "original principal outstanding" as of the date of the end of the COVID-19 payment pause "multiplied by 0.7% for an annual amount that will be paid on a quarterly basis." ED, FSA, Dear Colleague Letter GEN-22-16, "Fresh Start Initiative Guidance to Guaranty Agencies (GAs)," December 2, 2022, <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-12-02/fresh-start-initiative-guidance-guaranty-agencies-gas>.

¹⁶⁶ *FY2023 Annual Report*, p. 202.

FY2024: Actions Affecting the Direct Loan, FFEL, and TEACH Grant Programs

DMCS Contract Change

Debt Management and Collection System is an FSA system that aids in the collection of defaulted ED-held student loans. Functions of the DMCS include working with borrowers to facilitate repayment of their loans and working with the Departments of Justice and the Treasury to recover loan balances through wage garnishment offsets of federal income tax refunds.¹⁶⁷ In FY2024, ED implemented “policy changes to make the future of involuntary collections more effective at collecting owed payments while taking steps to protect against pushing borrowers with defaulted loans into poverty”; ED states it will implement these policy changes in a new contract to manage the DMCS. ED estimated this action resulted in a modification cost of \$1.8 billion for the Direct Loan program, \$18.0 million for the FFEL program, and \$2.3 million for the TEACH Grant program.¹⁶⁸

FY2024: Actions Affecting the FFEL Program

Voluntary Flexible Agreements and DMCS Contract Change

To enable ED and GAs to develop and evaluate alternative, efficient methods for GAs to administer aspects of the FFEL program, the HEA authorizes ED and GAs to enter into voluntary flexible agreements (VFAs) under which GAs may operate, rather than under HEA-specified guaranty agency agreements.¹⁶⁹ Under VFAs, ED and GAs may agree to the waiver or modification of certain statutory and regulatory FFEL program requirements (e.g., program administration requirements) and how GAs are to earn revenues and fees for their participation in the FFEL program.¹⁷⁰

In FY2024, ED implemented “policy changes to make the future of involuntary collections more equitable and less punitive for defaulted federal student loan borrowers”; ED states it will implement these policy changes through VFAs with GAs, as well as through a new contract to manage the DMCS.¹⁷¹ ED estimated these changes resulted in a modification cost of \$1.3 billion.¹⁷²

¹⁶⁷ ED, “Privacy Impact Assessment (PIA) for the Debt Management and Collection System (DMCS),” December 22, 2021, p. 1.

¹⁶⁸ *FY2024 Annual Report*, pp. 212, 216, and 217.

¹⁶⁹ 20 U.S.C. §1078-1; ED “Notice Inviting Guaranty Agencies to Submit Requests to Participate in a Voluntary Flexible Agreement,” 89 *Federal Register* 61102, July 30, 2024.

¹⁷⁰ The HEA states that in “no case may the cost to the Secretary [of Education] of the agreement, as reasonably projected by the Secretary, exceed the cost to the Secretary, as similarly projected, in the absence of the agreement.” 20 U.S.C. §1078-1(b)(2)(B).

¹⁷¹ *FY2024 Annual Report*, p. 216. For additional information on the voluntary flexible agreements, see ED, FSA, “Voluntary Flexible Agreements,” <https://fsapartners.ed.gov/knowledge-center/topics/financial-partners/voluntary-flexible-agreements>, accessed December 9, 2024.

¹⁷² *FY2024 Annual Report*, p. 216.

Modification Cost Summary and Data

ED took numerous executive actions that resulted in federal student loan and TEACH Grant modification costs in FY2021-FY2024. **Table 1** summarizes these actions. For each action, **Table 1** provides a descriptive name, which aligns with the headings in this report; the programs that were affected by the action; and ED’s reported modification cost for the action. The table is organized by the fiscal year in which a modification cost was reported, and, within each fiscal year, by the order in which the action appears in this report. ED generally prepares cost estimates individually for each action. The estimated cost of a modification may be affected by subsequent modifications (among other factors), and ED may update cost estimates to reflect such modifications. Therefore, the estimated costs shown in **Table 1** should be interpreted as costs estimated in a particular fiscal year, which may be different than costs estimated for the action in a subsequent fiscal year. As such, the individual modifications across all actions should not be added together to derive a grand total of modification costs.

Given that the modifications in **Table 1** should not be added together, **Table 2** presents net modification costs (as reported by ED in its annual budget justifications to Congress) for the Direct Loan, FFEL, HEAL, and TEACH Grant programs for FY2021-FY2023 to provide total modification costs in these programs in a given year.¹⁷³ Modification costs are estimates for a given point in time, which does not necessarily align with the point in time at which ED’s cost estimates presented in **Table 1** were made. Thus, the figures in **Table 1** may not match those in **Table 2**.

All told, most actions taken by the Administration in the four fiscal years CRS reviewed resulted in upward modifications costs (i.e., costs), and relatively few resulted in downward modification costs (i.e., savings). Actions taken with respect to the Direct Loan program made up the bulk of modification costs and savings, as the Direct Loan program is the primary federal student loan program in operation and accounts for 90% of all outstanding HEA Title IV loan volume.¹⁷⁴ The Administration’s broad-based debt relief policy resulted in the single largest modification cost, totaling about \$353 billion, during the period under review, but the action was not implemented, thus resulting in the largest downward modification during the period under review.

Table 1. Department of Education-Reported Actions That Resulted in Modifications for the Federal Student Loan Programs
FY2021-FY2024

| Action and Affected Programs | Modification Cost (dollars in thousands) |
|---|---|
| FY2021^a | |
| Loan Deferral Extension^{b, c} | |
| Direct Loan | \$49,500,000 |
| Federal Family Education Loan (FFEL) | \$3,600,000 |
| Teacher Education Assistance for College and Higher Education (TEACH) Grant | \$21,000 |

¹⁷³ Net modification costs for FY2024 are not presented in **Table 2** because ED’s annual budget justifications to Congress for FY2026—the document in which these figures would be available—was not available at the time of this report’s publication.

¹⁷⁴ ED, FSA, Student Aid Data Center, “Federal Student Aid Portfolio Summary,” FY2024 Q4, <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls>.

| Action and Affected Programs | Modification Cost (dollars in thousands) |
|---|---|
| Health Education Assistance Loan (HEAL) | \$1,000 |
| <i>Subtotal</i> | <i>\$53,122,000</i> |
| Total and Permanent Disability Discharge Regulations | |
| Direct Loan | \$18,700,000 |
| FFEL | \$2,200,000 |
| <i>Subtotal</i> | <i>\$20,900,000</i> |
| Faith-Based Final Rule^d | |
| Direct Loan | \$100,000 |
| TEACH Grant Regulatory Amendments^d | |
| TEACH Grant | \$24,000 |
| FY2022 | |
| Loan Deferral Extension^c | |
| Direct Loan | \$48,600,000 |
| FFEL | \$5,900,000 |
| TEACH Grant | \$17,000 |
| HEAL | \$1,400 |
| <i>Subtotal</i> | <i>\$54,518,400</i> |
| Broad-Based Debt Relief | |
| Direct Loan | \$337,300,000 |
| FFEL | \$16,100,000 |
| TEACH Grant | \$51,000 |
| <i>Subtotal</i> | <i>\$353,451,000</i> |
| Shift to Business Process Operations | |
| Direct Loan | -\$9,100,000 ^e |
| FFEL | -\$600,000 ^e |
| TEACH Grant | -\$2,000 ^e |
| <i>Subtotal</i> | <i>-\$9,702,000</i> |
| Income Driven Repayment (IDR) Plan One-Time Account Adjustment^f | |
| Direct Loan | \$14,100,000 |
| Public Service Loan Forgiveness (PSLF) Waiver | |
| Direct Loan | \$9,100,000 |
| Shift to FFEL Special Allowance to Secure Overnight Financing Rate | |
| FFEL | \$200,000 |
| Support for the Federal Student Loan Reserve Fund | |
| FFEL | \$1,100,000 |

| Action and Affected Programs | Modification Cost (dollars in thousands) |
|---|---|
| FY2023 | |
| Loan Deferral Extension | |
| Direct Loan | \$23,300,000 |
| FFEL | \$2,600,000 |
| TEACH Grant | \$9,300 |
| HEAL | \$900 |
| <i>Subtotal</i> | <i>\$25,910,200</i> |
| Broad-Based Debt Relief Reversal | |
| Direct Loan | -\$319,900,000 ^e |
| FFEL | -\$12,900,000 ^e |
| TEACH Grant | -\$49,300 ^{e,g} |
| <i>Subtotal</i> | <i>-\$332,849,300^e</i> |
| Fresh Start/On Ramp | |
| Direct Loan | \$2,200,000 |
| FFEL | \$3,000,000 |
| TEACH Grant | \$1,500,000 |
| <i>Subtotal</i> | <i>\$6,700,000</i> |
| TPD Discharge Regulations^h | |
| Direct Loan | \$4,400,000 |
| Closed-School Discharge Regulations^h | |
| Direct Loan | \$3,700,000 |
| Saving on a Valuable Education (SAVE) Plan | |
| Direct Loan ⁱ | \$70,400,000 |
| TEACH Grant | \$900,000 |
| <i>Subtotal</i> | <i>\$71,300,000</i> |
| Borrower Defense to Repayment and Arbitration Regulations | |
| Direct Loan | \$4,100,000 |
| PSLF Regulations | |
| Direct Loan | \$4,100,000 |
| Interest Capitalization Regulations | |
| Direct Loan | \$3,500,000 |
| Support for the Federal Student Loan Reserve Fund | |
| FFEL | \$700,000 |
| FY2024 | |
| Debt Management and Collection System (DMCS) Contract Change | |
| Direct Loan | \$1,800,000 |

| Action and Affected Programs | Modification Cost (dollars in thousands) |
|---|---|
| FFEL | \$18,000 |
| TEACH Grant | \$2,300 |
| <i>Subtotal</i> | |
| Voluntary Flexible Agreements (VFA) and DMCS Contract Change | |
| FFEL | \$1,300,000 |

Source: U.S. Department of Education (ED), Office of Federal Student Aid, Annual Reports for FY2021, FY2022, FY2023, and FY2024.

Notes: Details may not add to subtotals due to rounding.

- President Biden was sworn into office on January 20, 2021, approximately four months into FY2021.
- The Trump Administration extended these policies through January 31, 2021. Subsequently, the Biden Administration extended these policies through January 31, 2022.
- It appears that the “loan deferral extension” includes the COVID-19-related suspension of monthly student loan payments, as well as the COVID-19 related suspension of interest accrual and involuntary collections.
- The Trump Administration published this Final Rule on August 14, 2020, and stated it would implement the regulations as soon as possible.
- Negative (downward) modification costs represent savings.
- Although this action applies to ED-held FFEL programs loans, ED did not report an FFEL program modification cost associated with the policy.
- FSA’s FY2023 *Annual Report* indicates that the downward modification costs in the TEACH Grant program were \$49.3 billion. CRS confirmed with ED that this amount is an error. The downward modification costs in the TEACH Grant program were \$49.3 million. CRS communication with ED, Office of Legislation and Congressional Affairs, April 29, 2024.
- Although these amendments apply to FFEL programs loans, ED did not report an FFEL program modification cost associated with the policy.
- It appears the Direct Loan program modification costs for these regulatory amendments include FFEL program modification costs.

Table 2. Net Modification Costs in the Federal Student Loan Programs
FY2021-FY2023

| Program | Net Modification Cost (dollars in thousands) |
|---|---|
| FY2021 | |
| Direct Loan | \$70,861,525 |
| Federal Family Education Loan (FFEL) | \$6,112,293 |
| Teacher Education Assistance for College and Higher Education (TEACH) Grant | \$46,870 |
| Health Education Assistance Loan (HEAL) | n/a ^a |
| <i>Subtotal</i> | \$77,020,688 |
| FY2022 | |
| Direct Loan | \$425,839,951 |
| FFEL | \$24,553,242 |
| TEACH Grant | \$69,746 |
| HEAL | \$1,499 |

| | |
|-----------------|-----------------------------|
| <i>Subtotal</i> | \$450,464,438 |
| FY2023 | |
| Direct Loan | -\$202,558,349 ^b |
| FFEL | -\$4,565,106 ^b |
| TEACH Grant | -\$39,097 ^b |
| HEAL | \$923 |
| <i>Subtotal</i> | -\$207,161,629 ^b |

Source: U.S. Department of Education (ED), budget tables for President's budget request, FY2023, FY2024, and FY2025.

Notes: Details may not add to subtotals due to rounding.

- a. ED did not report modification costs for the HEAL program in FY2021.
- b. Negative (downward) modification costs represent savings.

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