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July 1, 2013

Nathan Arnold
U.S. Department of Education
1990 K Street NW, Room 8084
Washington, DC 20006-8542
(submitted electronically via: http://www.regulations.gov)

Re: Docket ID ED–2013–OPE–0066

Dear Mr. Arnold:

In response to the Federal Register notice published on May 16, 2013, I am writing to comment on the interim final rules on the 150% Direct Subsidized Loan limit.

The Institute for College Access & Success (TICAS) is an independent, nonprofit organization that works to make higher education more available and affordable for people of all backgrounds. Through nonpartisan research and analysis, we aim to improve the processes and public policies that can pave the way to successful educational outcomes for students and for society.

We are deeply concerned that the law and resulting rules for this provision may have unintended consequences, are confusing for borrowers to understand, and treat similarly situated students very differently. For example, will the pending loss of their interest subsidy encourage students to drop out at 150% of their program length – in which case they retain certain interest-free periods of repayment, such as grace periods and deferments – rather than stay enrolled to graduate, losing those interest benefits in repayment as a result? Given the complexity of the calculation of students' eligibility for additional subsidized loans and continued interest subsidy, will borrowers be able to understand their eligibility for those benefits – and therefore be able to respond to incentives – in any case? Additionally, is it fair for students with similar educational paths and borrowing histories to end up being treated very differently under this provision (e.g., Example 11 on pages 28961-62 of the Federal Register notice and the example below)?

Some of our concerns require statutory changes, but improvements to these regulations can help make this provision work better for students. **<u>There are at least two important changes the Department can make now:</u>**

1. Allow borrowers to regain the interest subsidy on their existing loans if they regain eligibility to receive additional subsidized Stafford loans by transferring to a longer program.

Consider two full-time students who complete bachelor's degrees in six years:

- The first transfers from a two-year college to a four-year college after three years and is eligible for subsidized loans and the interest subsidy on those loans throughout the full six years it takes to complete his degree.
- The second student enrolls for four years at the two-year college before completing her degree in two years at a four-year college. She borrows subsidized loans for three years but loses eligibility for new subsidized loans in her fourth year, and interest begins accruing on her existing subsidized loans. Upon transfer to a four-year college program, the student becomes eligible for three more years of new subsidized loans, for a total of six years of eligibility for her bachelor's degree. But one of those years comes too late to be helpful **–** in her seventh year of attendance, at which point she had already graduated, rather than her fourth year of attendance when she needed the loan. Further, under the interim final rules she cannot regain the subsidy she lost on her earlier loans and continues being responsible for accruing interest on those loans for her last three years of enrollment. Why should these two students be treated so differently when both completed a bachelor's degree in six years?

When students transfer to longer programs that enable additional subsidized loan borrowing, they should also regain eligibility for the interest subsidy on the loans they have already taken out. This clarification would simplify the policy and provider greater consistency among students with similar educational trajectories, as in the example above.

2. Improve the communication of this provision to borrowers in the Department's entrance counseling materials.

Given the complexity and unintended consequences of the statutory provision and resulting proposed rule, it is not surprising that the Department's federal loan entrance counseling materials on this policy for students (posted at http://ifap.ed.gov/eannouncements/attachments/051613DirectSubsidizedLoanLimit150PercentAnnounce1Attach.pdf) are more confounding than enlightening. Consider this yes/no question posed in the table on page 2:

> "Do I become responsible for paying the interest that accrues on my Direct Subsidized Loans because … I was no longer eligible for Direct Subsidized Loans, did not graduate from my prior program, and am enrolled in an undergraduate program that is longer than my prior program?"

According to the table in the counseling materials, the answer is "no." But according to the rule, the answer would not always be "no," depending on whether the borrower stayed enrolled in her first program after losing eligibility for additional Direct Subsidized Loans (answer: yes) or whether she transferred *immediately* to the longer program after reaching the 150% subsidized loan limit in her first program (answer: no).

We strongly urge the Department to comb through this counseling content to ensure that the information is as accurate and clear as possible, before these materials are fully incorporated into the federal student loan online entrance counseling later this year. For example, we recommend the following changes:

a) Under "Loss of eligibility for additional Direct Subsidized Loans and becoming responsible for paying interest on Direct Subsidized Loans" (page 2), clarify that borrowers become responsible for accruing interest based on certain types of *enrollment* after they exceed the 150% time limit, not based on whether they receive additional federal loans or Title IV aid.

b) In the second row of the table, "Do I become responsible for paying the interest that accrues on my Direct Subsidized Loans because…" (page 2), add "preparatory coursework for an undergraduate program" into the scenario.

c) Revise the first sentence of the last paragraph on page 2 for clarity, as follows:

> If you *fall under any of the "yes" conditions on the above table* ~~meet any of the conditions on the prior page~~, you will become responsible for the interest that accrues on your Direct Subsidized Loans, from the date of your enrollment after meeting the 150% limit, during periods when we would have normally paid the interest for you.

d) In the text below the green table on page 3, clarify that borrowers who become responsible for paying interest on their subsidized loans are only responsible for interest accruing after the date of the triggering enrollment, not previously accrued interest.

e) If the Department does not adopt our recommendation to allow borrowers to regain the interest subsidy on their existing loans if they regain eligibility to receive additional subsidized Stafford loans by transferring to a longer program, add the following language to the blue box, "Regaining eligibility for Direct Subsidized Loans" on page 3:

> If you regain eligibility to receive additional Direct Subsidized Loans because you enrolled a program that is longer than your prior program and you previously became responsible for paying all of the interest that accrues on your Direct Subsidized Loans, we will pay the interest that accrues on your new loans during the periods described in the chart above. *However, you will still be responsible for accruing interest on your existing Direct Subsidized Loans.*

These two steps will improve implementation, but the statutory provisions also need to be revisited. Changes in student aid policy should be made after public hearings and debate to ensure fairness and prevent unintentional consequences. By contrast, this statutory change was enacted and implemented with few, if any, hearings or public deliberation. We urge the Administration to consider ways to simplify and improve this policy in developing its recommendations for the reauthorization of the Higher Education Act. For example, an across-the-board six-year maximum eligibility period for all students would be much easier to understand, communicate, and implement, particularly for the many students who transfer between colleges. Through public hearings with stakeholders and affected populations, the Administration should also assess the impact of these rules on particular subsets of students who may require additional time to complete their degrees, including transfer students, low-income students, and students who need developmental education.

Thank you for the opportunity to comment on the interim final rules regarding the 150% Direct Subsidized Loan limit. If you have any questions or concerns regarding our comments, please feel free to contact me by phone at (510) 318-7900, or via email at dcheng@ticas.org.

Sincerely,

Diane Cheng
Research Analyst