

The image features a solid red background. In the top left corner, the word "RUTGERS" is written in a white, serif font. Below it, in a smaller, white, sans-serif font, are the words "THE STATE UNIVERSITY OF NEW JERSEY". A large, faint, circular seal of Rutgers University is visible in the background, centered behind the main text. The seal contains the text "RUTGERS UNIVERSITY" and "THE STATE UNIVERSITY OF NEW JERSEY" around its perimeter, with a central emblem.

RUTGERS

THE STATE UNIVERSITY
OF NEW JERSEY

College Cost Reduction and Access Act of 2007 (HR 2669)

American Bar Association

Commission on Loan Repayment and Assistance

“Many public service employers report having a difficult time attracting the best qualified law graduates. Alternatively, those who do hire law graduates find that, because of educational debt payment, those whom they do hire leave just at the point when they provide the most valuable services.”

Income-Contingent Repayment Option (ICR)

- President Clinton – 1993
 - Repay federally-guaranteed and federally-extended loans over a period of 25 years.
 - Yearly repayment obligation limited:
 - 20% of Discretionary Income
 - Defined as Adjusted Gross Income (AGI)
Minus 100 federal poverty level applicable to family size.
Money due but not paid because of the cap is added to borrower's principal. Principal can grow to greater than original debt (although compounding of interest ceases when principal balances reaches 110% of original principal).
- High debt and low income might result in principal always growing, such that debt would not be retired in 25 years.
- After 25 years of ICR payments, Congress forgave the balance of debt.

Different Types of Loans

- “Direct” Stafford Loans – educational loans made by Dept. of Education in the Federal Direct Student Loan Program (FDSLSP)
- Government Guaranteed Loans made by banks and lending institutions through Federal Family Education Loan Program (FFELP)
 - Schools make the choice, not borrowers
 - Can’t take ICR option if borrower does not have direct loans, but 1993 legislation permitted borrowers with government-guaranteed bank loans to opt for ICR by consolidating into federal direct consolidation loan.

- Many borrowers did not take advantage of ICR option:
 - Who wants to pay student loans for 25 years?
 - Commercial Loans not part of program, meaning that commercial loans would have to be paid on top of income-contingent repayments.
 - Stafford loan program frozen at \$18,500 per year; as tuition rises more and more financing necessarily processed through commercial loans to fill gap.
 - Loan counselors at law schools did not encourage ICR options

Higher Education Reconciliation Act of 2005

- Congress passed legislation:
 - Raised Stafford loan limit to \$20,500, beginning in 2007,
 - Created new government-guaranteed and government-extended loan program (Grad PLUS loan program, largely replacing need for commercial loans to fill the gap between Stafford and education financing needs).
 - Grad PLUS loans higher interest rates than Stafford Loans.

College Cost Reduction & Access Act of 2007

- Pell Grants Increased
- Teach Grants
- FFEL Interest Rates Decreased
- FDSL Stafford Loans Interest Rates Decreased
 - Current 6.8% interest rate decreased in yearly steps to ultimate low of 3.4%
- Loan Deferment for Armed Forces

Two Major Provisions

- Sec. 203 – “Income-Based Repayment” (IBR) Option
 - Limits annual educational debt repayment to 15% of discretionary income, defined as AGI minus 150% of poverty level.
 - Debt unpaid under IBR option eligible for “Public Service” forgiveness.
 - Eligible for 25 year forgiveness, if public service forgiveness not applicable.

Monthly Repayment Examples

- Assume \$100,000 of student loan debt and \$40,000 AGI of borrower:
 - Standard Stafford Loan Repayment (6.8%)
 - Monthly payment of **\$1,155** for 10 years (35% of AGI is committed to student loan repayment)
 - IBR Option
 - Monthly payment of **\$309**, based upon 15% of discretionary income (AGI minus \$15,315)
 - Represents only 9% of AGI for student debt

Which Student Loans are Eligible for IBR?

- All federal direct loans and federally guaranteed loans are eligible including:
 - Federal Perkins Loans
 - Subsidized Federal Stafford Loans
 - Unsubsidized Federal Stafford Loans
 - Federal Grad PLUS loans (but not Parent PLUS loans)
 - Federal Direct Consolidation Loans

Which Student Loans are Not Eligible for IBR?

- Loans made by a state or private lender and not guaranteed by the federal government are never eligible.
- Parent PLUS loans are not eligible.

Which Borrowers are Eligible for IBR?

- IBR is available to borrowers with a “Partial Financial Hardship”.

What Counts as a “Partial Financial Hardship”?

- Partial Financial Hardship exists when:
 - A borrower’s annual student loan payments under a ten year standard repayment plan are greater than 15% of the amount by which the borrower’s adjusted gross income (and that of a spouse if applicable) exceeds 150% of poverty.

What is Adjusted Gross Income?

- Adjusted gross income (AGI):
 - Taxable income from all sources minus specific deductions including the IRA deduction, student loan interest deduction, and alimony paid by the individual, but not standard or itemized deductions.

How Do I Know If I Have a “Partial Financial Hardship”?

- 1) Look up the current federal poverty level and calculate 150% of poverty. (a)
- 2) Know or estimate the amount of student debt and calculate the annual student debt payment under the standard repayment plan for that amount of student debt. (b)
- 3) Know or estimate AGI. (c)
- 4) Subtract 150% of poverty (a) from AGI (c) to calculate the “amount by which AGI exceeds 150% of poverty” (d).
 $c - a = d$
- 5) Calculate 15% of the amount by which AGI exceeds 150% of poverty (d). $(.15)d = e$
- 6) If $b > e$, you have a “Partial Financial Hardship”.

But, I'm a lawyer! Lawyers don't do math!

- **Start with your law school financial aid office**
- Equal Justice Works resource library:
www.equaljusticeworks.org
- Finaid.org has debt payment calculators:
<http://www.finaid.org/calculators>
- Salary data is available through NALP:
www.nalp.org

What happens if the monthly payment does not cover interest?

- The government will pay unpaid interest for three years, only for subsidized Stafford loans.
- The rest of the interest is capitalized.
- The borrower's standard ten year payments are calculated on the balance due prior to capitalization.

Public Service

- Sec. 401 Forgiveness for Public Service Employees
 - Complete forgiveness for borrower who makes 120 monthly IBR payments (10 Years) while engaged in *full-time public service*.
 - Standard Stafford Agreement (\$1151/mo) repays a total of \$138,097 over ten years.
 - IBR borrower who spends ten years in full-time public service (\$309/mo to start) pays \$42,448 over ten years; remainder is completely forgiven.

Public Service Forgiveness for Direct Loans Only

- Only Direct loans are eligible for forgiveness.
- Borrowers with other government loans can consolidate with Direct Loans in order to obtain this benefit, assuming they are eligible to consolidate.

Other Key Provisions

- IBR goes into effect July 1, 2009.
- If a borrower chooses to leave IBR or no longer qualifies, his payments at that point must not exceed the amount he would have paid each month under a standard plan before he chose IBR.

What is meant by “Public Service”?

- Public Service Job. -- The term “public service job” means—
 - a full-time job in emergency management, **government**, military service, public safety, law enforcement, public health, public education (including early childhood education), social work in a public child or family service agency, **public interest law services (including prosecution or public defense or legal advocacy in low-income communities at a nonprofit organization)**, public child care, public service for individuals with disabilities, public service for the elderly, public library sciences, school-based library sciences and other school-based services, **or at an organization that is described in section 501(c)(3) of the IRS Code and exempt from taxation**, or teaching as a full-time faculty member at a Tribal College or University and other faculty teaching in high-needs areas, as determined by the Secretary

What is meant by “full-time”?

- Not defined by the statute.
- To be developed in regulations.

Must the 10 years of Public Service be Continuous?

- No. The forgiveness provision requires only that 120 monthly payments that qualify be made.
- Conference Report makes this clear: "...a period of ten years (which need not be consecutive)."

When can I start counting my service toward forgiveness?

- Borrowers who have federal direct loans or who have consolidated into federal direct consolidation loans may begin counting time in public service beginning October 1, 2007.

When are these new provisions effective? Can I include prior payments I made while in public service? Please!!!

- A little complicated. Individual financial counseling advised.
- The two main provisions are not fully effective until July 1, 2009.
- Payments made after October 1, 2007 can count toward 10 year forgiveness, if loan payments made pursuant to eligible repayment plan (ICR, for example).
- Payments made before October 1, 2007 will not qualify, regardless of repayment plan option.

Some remaining issues...

- The amount cancelled will be treated as taxable income. We hope, and have some reason for optimism, that this will be address by Congress.
- How the legislation will interact with Loan repayment Assistance Programs (LRAPs), now in effect here, as well as in over 60 other law schools, is not clear. There are some employers and government LRAPs, as well.
- In that all of a spouse's income is included in the income calculation, there is something of a marriage penalty. Again, hopefully Congress will address this issue. One possible solution is that half of a spouse's income will be included, rather than the entire amount.

Additional Resources

- Professor Philip Schrag's Law Review article:
<http://www.law.georgetown.edu/news/documents/Forgiveness.pdf>
- IBR monthly repayment calculator:
<http://www.finaid.org/calculators/ibr.phtml>
- Federal direct consolidation loan information and applications:
<http://loanconsolidation.ed.gov/>