

# What the CARES Act Means for Repayment of Federal Student Loans

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March 28,  
2020

UPDATE (April 2, 2020): The Department of Education has provided more information about implementation of the CARES Act. Updates are provided in the text below.

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On Friday, March 27th, the U.S. House of Representatives passed and the President signed into law the “Coronavirus Aid, Relief, and Economic Security Act” or the “CARES Act,” emergency legislation intended to meet urgent public health and economic needs in the face of the coronavirus crisis.

The CARES Act includes several provisions that apply to certain loans owed by some federal student loan borrowers. Most provisions apply only to Direct Loans and Federal Family Education Loans (FFEL loans) currently owned by the U.S. Department of Education (Department). Critically, neither Perkins Loans nor commercially-held FFEL loans are covered by the bill. We estimate roughly 9 million federal student loan borrowers have at least one loan not covered by the Act. Private student loans are also not covered by most of the provisions discussed below.

What follows is a summary of what we currently know about the key student loan repayment provisions. Throughout, we flagged some questions about coverage and implementation to which answers are not yet readily available.

## ***Payment Suspension***

*What it does:* The Act suspends all payments due on certain federal loans until September 30, 2020. Specifically, this provision applies only to non-defaulted Direct Loans and FFEL loans currently owned by the Department.

*What we don't know:*

- When does the suspension of payments start? **UPDATE: According to the Department, payments will be suspended from March 13, 2020, through Sept. 30, 2020.**

- Will loan servicers automatically stop auto-debit payments? **UPDATE: According to the Department: “Auto-debit payments are suspended during the administrative forbearance. Any auto-debit payments processed between March 13, 2020, and Sept. 30, 2020, can be refunded to you.” According to Politico, servicers have until April 10 to implement these changes. Borrowers can contact their servicers to have any amounts returned.**
- What impact will this have on income-driven repayment recertification deadlines?
  - Going forward, will this change the date on which any borrower must submit their annual income documentation or will each borrower maintain their pre-established recertification anniversary date?
  - If borrowers will maintain the same date, what does this mean for borrowers whose anniversary dates occur during the suspension?

## ***Interest Waiver***

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*What it does:* The Act states that interest shall not accrue while the loan payments are suspended. Because this provision applies only to loans for which payments have been suspended, that means that this provision also applies only to Direct Loans and to FFEL loans currently owned by the Department.

*What we don't know:*

Will any outstanding interest that accrued before the waiver went into effect be capitalized? (In other words, will the interest be added to the balance on which new interest is calculated?) Interest capitalization is triggered by certain events (i.e. entering repayment, ending a deferment/forbearance, a change in repayment plan, consolidation). Prior to the passage of the CARES Act, the Department said that borrowers who were in a forbearance prior to March 13th, will have interest that accrued during the forbearance period prior to March 13, 2020 capitalized. It is unclear what impact this Act will have on administrative actions already announced. In addition to forbearances, many borrowers in an income-driven repayment plan also have unpaid interest. It is unclear whether ending or starting this payment suspension will be considered a triggering event for those borrowers.

## ***Time in Suspension Counts Toward Forgiveness or Loan Rehabilitation***

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*What it does:* The Act states that each month for which a loan payment or involuntary collection was suspended under this law shall be treated as if the borrower made a payment for the purpose of any loan forgiveness program or loan rehabilitation program authorized for which the borrower would have otherwise qualified.

This means that for borrowers in an income-driven repayment plan, the suspended payments are considered qualifying payments that can be counted toward forgiveness. Borrowers working toward Public Service Loan Forgiveness will also have time in suspension counted toward their 10 years of qualifying payments.

It also means that for defaulted loans that are enrolled in a rehabilitation program, each month during the collection suspension (discussed below) will count as a month in which an on-time rehabilitation payment was made—even if the borrower does not make payments.

*What we don't know:*

For Public Service Loan Forgiveness, what happens to borrowers who were working for qualifying employers, but are unable to work or whose hours are cut below full-time status because of COVID-19?

## ***Credit Reporting***

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*What it does:* For credit reporting purposes, any payment that has been suspended is treated as if the borrower made a regularly scheduled payment.

## ***Collection Suspension***

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*What it does:* The Act suspends all involuntary collection of defaulted Direct Loans and Department-owned FFEL loans until September 30, 2020. This explicitly covers non-judicial wage garnishment, tax offsets, and federal benefit offset (e.g., seizure of Social Security benefits). There is also a catch-all provision to cover other types of involuntary collection by the Department of Education.

*What we don't know:*

What will be included in this catch-all category? “Involuntary collection” isn’t defined anywhere in existing code. While the Act should include state tax offsets and federal salary and contractor offsets, it has not explicitly been stated.

## ***Borrower Notification***

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*What it does:* The Act requires the Secretary of Education (the Secretary) to notify borrowers for whom payments have been suspended and interest waived, or for whom involuntary collection has ceased, within fifteen days of these changes. The notification will also inform borrowers of the option to continue making payments toward principal. Beginning August 1,

2020, the Act also requires the Secretary to give each borrower a notice at least six times, stating when the borrower's normal payment obligations will resume and that the borrower has the option to enroll in income-driven repayment.

## ***Loan Cancellation for Current Students***

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*What it does:* For borrowers who withdraw from their school as a result of the coronavirus crisis, the Act requires the Secretary to cancel the borrower's Direct Loan associated with the payment period in which they withdrew.