The GEORGETOWN LAW Office of Financial Aid Guide to Income-Driven Repayment Plans and Federal Public Service Loan Forgiveness

March 2017 Edition

What's Pay As You Earn and Income-Based Repayment?

The government may forgive my loan debt?

Does it matter if I'm married?

Should I pick this option when I enter repayment?

Most repayment of debt (like a car loan, mortgage, etc.) is based on how much you owe, how long you have to pay it back and what the interest rate is. Now, new options from the federal government allow many student loan borrowers to make federal education debt payments based on how much they earn instead.

This Guide describes these income-driven repayment plans and a closely related loan forgiveness program from the federal government for public service employees. These programs are potentially very beneficial but the details are important to consider. Please take the time to review this Guide carefully and in its entirety – it may well save you tens or even hundreds of thousands of dollars! Also, you should not hesitate to ask anyone in the Office of Financial Aid if you have questions about these programs or your other loan repayment options.

The highlights -

- You qualify for the Pay As You Earn and Income-Based Repayment ("IBR") plans based on your federal student loan debt, your income and your family size
- Your payments will adjust annually to reflect changes in your income and/or family size
- You do NOT need to be working in a particular field or for a particular type of employer to qualify
- If you qualify for Pay As You Earn or IBR and also work for a public service employer, you may benefit from the forgiveness of the remainder of your federal debt after 10 years of participation/payment
- You may pay more than you otherwise would over time under Pay As You Earn or IBR if you are not working in the public service
- The new federal benefits and LRAP may be combined if you qualify for both

Pay As You Earn

Under the Pay As You Earn plan, your monthly federal student loan payment obligation is determined by your income, not by the amount you have borrowed. The Pay As You Earn option is only available for certain federal loans – Direct Stafford loans, Direct Grad PLUS loans and most federal Direct Consolidation loans[1] – and only if the borrower of which 1) did not borrow any federal student loans[2] prior to October 1, 2007 or had entirely paid off all such loans as of that date and 2) had at least one federal Stafford or Graduate PLUS loan disburse on or after October 1, 2011 or applied for and completed a Federal Direct Consolidation loan on or after such date. A borrower who does not meet the first requirement may regain eligibility for future, otherwise-eligible federal student loans when and if he or she completely pays off [3] all outstanding federal student loans[4] regardless of when they were borrowed.[5]

You may choose to enter Pay As You Earn only if you have a "partial financial hardship." A partial financial hardship is a situation in which the annual payment amount on your Pay As You Earn-eligible student loans – as calculated under the 10-year, Standard Repayment schedule – exceeds 10% of your discretionary income.[6] Discretionary income for Pay As You Earn purposes is the amount by which your adjusted gross income ("AGI") exceeds 150% of the federal poverty guideline for your family size.[7] Your family size is determined by counting yourself, your spouse, and your children if they receive more than half their support from you.[8] The 2017 poverty guidelines for a family of one, two and three people living in Washington, DC or any of the contiguous 48 states are $12,060, $16,240, and $20,420, respectively.[9]

The following table provides some examples of the approximate minimum eligible debt levels required to qualify for Pay As You Earn, assuming all loans have an interest rate of 6.8%,[10] the borrower is single, has no dependents, and lives in Washington, DC or any of the contiguous 48 states.

Adjusted Gross Income	Approximate Minimum Eligible Debt
$40,000	$16,000
$60,000	$31,000
$80,000	$45,000
$100,000	$60,000
$160,000	$105,000

[1] Federal Perkins loans also may be paid under Pay As You Earn, but only if they are included as part of a Federal Direct Consolidation loan. Pay As You Earn is **not** available for loans that were consolidated with a Parent PLUS loan, loans that are in default, federal "FFELP" loans (unless included as part of a Federal Direct Consolidation loan), or private student loans. See note 29 and accompanying text for more information.
[2] This limitation does not include federal Perkins loans.
[3] The pay-off may not be through a Federal Direct Consolidation loan.
[4] This does not require the pay-off of any federal Perkins loans.
[5] Collectively, this multi-prong test is Pay As You Earn's "new borrower" test.
[6] The applicable loan balance on which the 10-year, Standard Repayment is calculated for this comparison is the greater of the loan balance when the borrower entered repayment and the borrower's current loan balance.
[7] While the use of prior tax year AGI is the default method of determining discretionary income, lenders do have the right to use alternative methods if they believe that your prior year AGI does not reasonably reflect your current income. The Department of Education's Direct Loans program is currently requiring alternative documentation of income for most new participants.
[8] You may also count unborn children who will be born during the year in which you are certifying your family size as well as other individuals if those individuals live with you and receive more than half their support from you.
[9] You can review all of the 2017 federal poverty guidelines at https://aspe.hhs.gov/poverty-guidelines.
[10] If the weighted average interest rate of all loans is higher the minimum eligible debt level would be lower. If the weighted average rate is lower the minimum debt would be higher.

Your AGI may be determined from your previous year's federal tax return or, at your lender's discretion, alternative documentation of current income. If you're married, it includes your spouse's contribution to your AGI if you file your federal tax return jointly.[11] If you file your federal tax return separately, your spouse's income is typically not considered for Pay As You Earn purposes (although your spouse still counts in your family size).[12]

Under Pay As You Earn, your loan payments will be capped at 10% of your discretionary income or your payment amount under the Standard Repayment schedule, whichever is less.[13] Every year, your payment amount will be adjusted based on new discretionary income and family size information.[14] In addition, your discretionary income will be compared with your original 10-year standard repayment amount to determine if you continue to have a partial financial hardship. If you cease to have a partial financial hardship, you will begin owing the Pay As You Earn maximum amount (i.e., your standard 10-year monthly repayments).[15] At the end of 20 years any remaining balance on eligible loans is forgiven.

Adjusted Gross Income (single, no dependents, contiguous US)	Approximate Monthly Repayment under Pay As You Earn
$40,000	$185
$50,000	$270
$60,000	$350
$80,000	$520
$100,000	$685
$160,000	$1,185

Income-Based Repayment ("IBR")

If you don't qualify for Pay As You Earn you may still benefit from IBR, an alternative income-driven repayment plan with broader eligibility requirements. Most importantly, there is no "new borrower" test[16], so borrowers may qualify even if they still owe on a federal student loan borrowed prior to October 1, 2007. In addition, certain older Stafford and Grad PLUS loans (*i.e.*, older "FFELP" loans which are federal loans

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[11] Married borrowers who file joint tax returns and who both have eligible student loan debt have their individual Pay As You Earn eligibility determined based on their joint income and the combined eligible loan debt of both spouses.

[12] Please note that certain federal and other tax benefits are not allowable for married taxpayers filing separate tax returns. Additionally, spousal income may nevertheless be a factor in community property states. As with all tax and finance matters, you should carefully consider all the ramifications of electing this repayment option as part of your overall tax and financial strategy.

[13] If your calculated monthly Pay As You Earn payment is less than $5, you will owe nothing. If your calculated monthly payment is equal to or greater than $5, but less than $10, your monthly payment will be $10. Note that it is possible under Pay As You Earn to owe and pay less each month than the amount of interest that has accrued on your loans for that period. (In other words, Pay As You Earn allows for the "negative amortization" of your loans. Negative amortization is the process through which your principle loan balance actually increases over time due to unpaid interest being recapitalized.) For the first three years of your Pay As You Earn payments, any accrued interest you are not obligated to pay on the subsidized Stafford loan portion of your loans will be paid by the U.S. Department of Education. All other such accrued interest is capitalized if/when you leave Pay As You Earn or no longer have a partial financial hardship.

[14] You may be required to permit your lender to view certain IRS information about you. You must also annually re-certify your family size. If you fail to re-certify your family size, a family size of one will be used even if you had a family size greater than one previously.

[15] You may also choose to exit the plan. If you do, you will automatically be switched to the standard 10-year repayment plan. Contact your loan servicer to determine what other repayment options are available to you at that time.

[16] See text accompanying note 5.

that were not borrowed from the federal government[17]) are considered eligible loans under IBR.

Under IBR, the amount of discretionary income used to determine whether a borrower has a partial financial hardship and, if so, the monthly required payment obligation, increases from 10% under Pay As You Earn to 15% under IBR. In addition, the maximum length of time a borrower is required to make monthly payments increases from 20 years under Pay As You Earn to 25 years under IBR[18]. Otherwise, the two repayment plans function similarly.

Pay As You Earn vs. IBR[19]

	Pay As You Earn	Income Based Repayment
Partial Financial Hardship Requirement	Annualized 10-year Standard repayment obligation is greater than 10% of discretionary income	Annualized 10-year Standard repayment obligation is greater than 15% of discretionary income[20]
Monthly Payment Obligation	10% of discretionary income divided by 12	15%[18] of discretionary income divided by 12
Maximum Payment Period	20 years	25 years[21]
Eligible Borrower	• Must have a loan disbursement on or after October 1, 2011 <u>and</u> • As of October 1, 2007 must have had zero federal loan debt <u>or</u> after that date had paid off **all** prior loans	
Eligible Loans	Direct student loans	FFELP and Direct student loans

[17] See note 29 and accompanying text.
[18] For borrowers who borrowed their first federal student loan on or after July 1, 2014, the amount of discretionary income used to determine whether a borrower has a partial financial hardship and, if so, the monthly required payment obligation switches to 10% under IBR and the maximum length of time this borrower must make IBR payments switches to 20 years. These borrowers would also qualify for Pay As You Earn.
[19] This quick-comparison chart omits many details. Be sure to review all details of both plans in this Guide and elsewhere.
[20] 10% for borrowers who borrowed their first federal loan on or after July 1, 2014.
[21] Twenty years for borrowers who borrowed their first federal loan on or after July 1, 2014.

Revised Pay As You Earn ("REPAYE")

Yet another income-driven repayment plan – REPAYE – became available on December 17, 2015. This plan works much like Pay As You Earn but does not have Pay As You Earn's "new borrower" test.[22] It limits monthly payments to 10% of discretionary income and has an enhanced interest subsidy whereby 50% of any unpaid interest (in negative amortization situations where the monthly REPAYE amount is not sufficient to cover accruing interest)[23] is paid on the borrower's behalf (and, therefore, not added to amount of debt outstanding). However, the forgiveness period under REPAYE is 25 years for graduate school debt and spousal income is not excludable from the borrower's discretionary income, even if separate tax returns are filed. Borrowers should consider these tradeoffs when comparing their income-driven options, although especially for public interest employees the inability to exclude spousal income may mean much more than the limit on interest accumulation.

Federal Public Service Loan Forgiveness

At the end of 20 years, any remaining balances will be forgiven under Pay As You Earn (25 years for IBR and REPAYE).[24] However, you may be eligible for forgiveness after only 120 on-time Pay As You Earn, IBR or REPAYE payments[25] (or in as little as 10 years[26]) if you satisfy certain additional criteria while making those payments.

First, you must be working full-time[27] for a qualifying public service employer, such as the government (including federal, state and local governments) or a 501(c)(3) non-profit organization.[28] **Second**, your loans must be owed directly to the federal government as a specific type of loan called a Federal Direct loan. Federal loans borrowed while at Georgetown prior to the 2010-2011 academic year, while guaranteed by the federal government, were borrowed from (and may still be owed to) a third-party entity.[29] Therefore, these loans (and other similar federal loans you may have from attendance at other institutions) and any Perkins

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[22] See note 5 and accompanying text.
[23] See note 13 and accompanying text.
[24] For IBR, the beginning date for this period is the earlier of the date on which the borrower made an IBR payment or the date on which the borrower made a payment or received an economic hardship deferment on another eligible FFELP loan or made a payment or received an economic hardship deferment on a FFELP Consolidation loan prior to qualifying for IBR, but no earlier than July 1, 2009. See note 29 for more information on "FFELP" loans.
[25] Qualifying payments on or after October 1, 2007 under the standard, 10-year payment plan also count for the 120 payments requirement as do certain other less common payments made on or after that date provided all other requirements are met. No payments under an extended repayment plan count. Eligible payments must be received within 15 days of the due date to be considered an on-time payment.
[26] The 120 payments do **not** need to be consecutive.
[27] Full-time is defined by your employer, but must be at least 30 hours per week for nine months per year. You may combine part-time employment with multiple eligible employers in order to meet the full-time requirement. In addition, leave taken under a condition covered by the Family and Medical Leave Act of 1993 does not constitute a break in full-time employment or have the effect of reducing your annual average to below your full-time level.
[28] Additional qualifying employment is service in a full-time AmeriCorps or Peace Corps position, employment for tribal government, or employment in a "public service organization" which includes organizations that provide "legal services provided by a public service organization that are funded in whole or in part by a local, state, federal, or tribal government" but are not "a business organized for profit, a labor union, a partisan political organization, or an organization engaged in religious activities, unless the qualifying activities are unrelated to religious instruction, worship services, or any form of proselytizing." The job duties of an otherwise qualifying 501(C)(3) employee must also be unrelated to religious instruction, worship services, or any form of proselytizing. Full-time volunteer work, other than for AmeriCorps or Peace Corps, does not qualify. The geographic location of your work does not matter for these purposes, but your employer must be a U.S. entity.
[29] Examples include Stafford or Grad PLUS loans from Discover, T.H.E., Access Group and Citibank. These federal loans are part of the Federal Family Education Loan Program and are commonly known as "FFELP" loans. Note that even if FFELP loans were sold or "put" to the U.S. Department of Education by a third-party lender they are still not Direct Loans.

loans must be transferred to the U.S. Department of Education through a process called Federal Direct Consolidation. You are entitled by law to make this transfer for the purpose of participating in the public service loan forgiveness program and can start the process by visiting www.studentloans.gov.[30]

You will need to affirmatively seek loan forgiveness upon satisfactorily making your 120th qualifying payment and still be employed in full-time qualifying employment when you apply for forgiveness and when that forgiveness is granted. You will also need to provide documentation and verification of your qualifying employment. Therefore, you are strongly urged to keep very careful records of your employment and payment history. No more than once annually, you can request certification of qualifying payments already made by submitting an Employment Certification for Public Service Loan Forgiveness form.[31] Loans forgiven under this public service program will not be considered taxable income by the IRS.[32]

Is Income-Driven Repayment Right For Me?

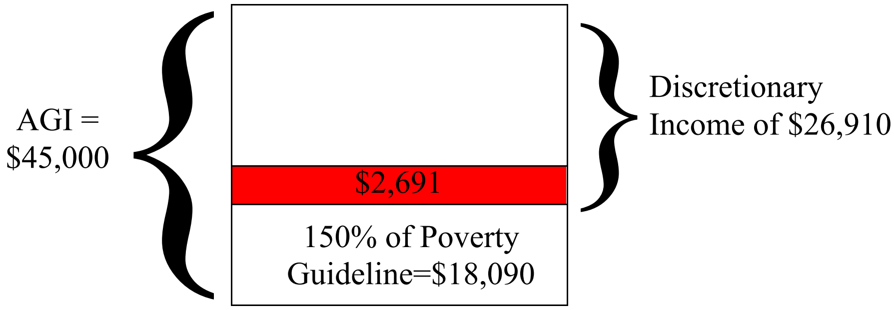
Now that you are familiar with the main income-driven repayment plans and the federal Public Service Loan Forgiveness program, the question remains whether Pay As You Earn, IBR (or potentially REPAYE) is the right repayment plan for you. While the answer to that question depends on the specifics of your situation (and predictions by you regarding your future career path), it is helpful to first review some numerical comparisons.

For simplicity, let's assume a student has $120,000 in total federal student loan debt upon entering repayment. And let's assume that debt is made up of $61,500 in Stafford loans and $58,500 in Grad PLUS loans.[33] The amounts[34] this student would owe and pay under more typical repayment schedules are:

	Monthly payment	Total payments	NPV of total payments
10-year Standard Repayment	$1,414	$169,702	$129,409
30-year Extended Repayment	$826	$297,235	$143,014

In order to determine what this student's payments will be under Pay As You Earn, we must first investigate his income. Let's assume he lives in D.C., his AGI is $45,000[35] and he is unmarried and has no children or other dependents.

[30] FFELP loans consolidated with a spouse's loans when that was an option are not eligible for Federal Direct Consolidation and therefore are not eligible for federal public service loan forgiveness.
[31] See www.studentaid.ed.gov/publicservice for more information and to obtain the Employment Certification form.
[32] Under current law, debt forgiven at the end of the full 20- or 25-year Pay As You Earn, IBR or REPAYE plans will be taxable.
[33] This hypothetical example is highly stylized. While the total loan debt is similar to the average student loan debt for recent Georgetown Law graduates, including three years of maximum Stafford loan borrowing, it does not take into account interest that would have accrued on the unsubsidized portions of that debt while the student is in school. It also does not take into account any benefits of Pay As You Earn, IBR or REPAYE and the federal Public Service Loan Forgiveness program as they relate to subsidized interest while in repayment. The interest rates in this example are assumed to be 6.8% for the Stafford loans and 7.9% for the Grad PLUS loans (the rate at which loans were fixed prior to July 1, 2013). This example also assumes an annual income growth rate of 4%, a discount rate of 5.8% and an annual poverty level growth rate of 3%. You should compute your own projections using your own assumptions.
[34] These and all amounts in this hypothetical are approximated.
[35] This is a typical starting salary for a public interest attorney. Remember that the default method of determining payments uses the borrower's AGI from the previous year, which in many cases will be lower than current salary.



The red portion of the illustration above represents 10% of this student's discretionary income of $26,910 (or $2,691). Since that amount is less (much less!) than his annual payments would be under his 10-year, Standard Repayment schedule ($1,414 x 12 = $16,968), he is eligible for Pay As You Earn if he meets the "new borrower" test. His initial monthly payments under Pay As You Earn would be approximately $225 ($2,691 / 12). Even under the 15% version of IBR, this borrower's monthly payment obligation would only be approximately $340.

But remember, unlike the Standard or Extended Repayment options, this student's monthly payments are likely to change from year to year because his income is likely to increase. Let's assume his income increases by 4% each year and he is employed by an eligible public service employer. His monthly payments would increase each year (as his income and, therefore, his discretionary income increases) until, in year 10, his monthly payments would equal approximately $352 under Pay As You Earn or $527 under the 15% version of IBR. At the end of year 10, he would have paid approximately $34,820 ($26,010 NPV) under Pay As You Earn or $52,300 ($39,014 in NPV) under IBR. Assuming he made his payments on-time, he would then qualify for federal forgiveness of the remaining amount outstanding, or approximately $173,215 under Pay As You Earn or $155,805 under IBR.

What if this student earned the same amount in year one (and over time), but did not work for an eligible public service employer? (For example, let's assume he works for a small, private firm in a rural town.) He would still qualify for Pay As You Earn or IBR but he would not benefit from federal Public Service Loan Forgiveness after 120 payments. Instead, he would need to continue making payments until the end of year 20 under Pay As You Earn or year 25 under IBR at which time the remainder of his owed amount would be forgiven. At the end of 20 years of Pay As You Earn, he would have paid approximately $88,980 ($49,039 in NPV) and approximately $207,090 would be forgiven. At the end of 25 years of IBR he would have paid approximately $189,479 ($89,248 in NPV) and approximately $147,600 would be forgiven. In addition to the monthly Pay As You Earn or IBR payments, he would probably pay approximately $60,000-$100,000 in taxes on the amount forgiven at the end of the payment period.

There are many assumptions in this hypothetical. Unfortunately, you will need to make many assumptions too as you consider these options (the biggest of which is your future employment). You are advised to experiment with different hypothetical situations using the calculators available at www.finaid.org or the worksheet included in this packet and should feel free to consult with a member of the Georgetown Law Office of Financial Aid team for more individualized advice.