BUILDING AN EQUITABLE STUDENT FINANCE SYSTEM

A Case and Framework for Action

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JUNE 2022



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Key Points:

- The current focus on helping existing student borrowers is critical. But we must also seek the reforms needed for our system to serve all students equitably and humanely now and in the future.
- Getting to an equitable system requires recognizing persistent barriers that hamper reform efforts:
 - I. Our conception of the problem has been too narrow focused heavily on access and not attentive enough to protecting students (affordability) and helping them reach high-quality programs (accountability).
 - 2. It is technically challenging to build a program that achieves these three goals. It requires student engagement and continuous iteration and learning. Instead, reform of federal loans is top-down, sluggish, and politicized.
 - 3. Students need equitable finance options and high-quality pathways. Yet, policymakers have struggled to implement accountability measures for fear of curtailing access thereby perpetuating poor outcomes.
- It is possible to overcome these barriers. But we must leverage the private sector in a purposeful way. Specifically, those invested in achieving an equitable student finance system should welcome and support the emergence of new private options built around these goals and willing to be held to that standard.
- Impact-focused private organizations are well-suited to building new, equitable funding options, for three reasons:
 - 1. They can set clear, measurable goals tied to a complete conception of students' needs access to funding, risk-sharing protections, and accountability for students' outcomes.
 - 2. They can be nimble, using a continuous process of measurement, student engagement, and learning to get ever closer to these goals.
 - 3. They can avoid the pitfalls that have bedeviled federal accountability efforts by creating a simpler definition of success rooted in helping students achieve economic self-sufficiency and by helping expand educational pathways that achieve that goal for students.
- A thriving ecosystem of private, equitable student finance options would have three significant benefits:
 - 1. They would directly benefit students they serve filling in gaps not covered by federal programs.
 - 2. Resulting innovation from these programs would help inform debates around reforming federal loans.
 - 3. They would help drive a positive cycle of reform and accountability in the postsecondary system itself.
- For these reasons, in 2016, I founded Better Future Forward (BFF), a nonprofit focused on building an equitable and scalable model of supporting students pursuing postsecondary education. BFF uses income share agreements (ISAs) as a tool we believe is well-suited, when used effectively, to building equitable programs for students. Many other entities have adopted ISAs as well, seeking new tools to address barriers facing populations they serve.
- The emergence of ISAs has aroused serious controversy, on three fronts. First, like all novel and complex financial tools, ISAs can be misused. Second, critics have argued that ISAs are simply a form of loan in disguise and that describing them as anything but that is misleading to students. Third, critics express fear that ISA providers' claim that ISAs are not a type of loan for regulatory purposes is an attempt at avoiding regulatory oversight.

- These are important questions and deserve serious attention. However, the conversation about ISAs often falls into a series of binary, either/or framings that unnecessarily narrow the range of policy options under consideration:
 - Are ISAs inherently good or bad? Are they loans or not? Should support for students be public or private? The reality is more complex: ISAs are a tool that can be used in helpful or harmful ways. Also, like loans, they involve a financial obligation, but they are meaningfully different from conventional, fixed-payment private loans, and we need vocabulary to describe these differences. Finally, we need well-designed federal loans and equitable private options to complement them.
- The narrow focus on these binary questions is causing us to lose our way on the map toward a more equitable student finance system. As I argue in this paper, achieving that goal requires four things:
 - I. We must create a shared definition of success for an equitable student finance program one rooted in a clear conception of the problems such programs should be addressing for students.
 - 2. Philanthropy and impact capital providers must play a central role in helping equitable options emerge.
 - 3. We must create new vocabulary for risk-sharing tools.
 - 4. Policymakers should create a consumer protection framework designed to support equitable options and prevent abuse.
- I believe the core principles of an equitable student finance system are widely shared, and if we can organize our discussions in this way, we can make great progress toward a better system for students.



INTRODUCTION

Recent widespread calls for student debt cancellation mark a turning point in the ongoing debate over the financing of higher education in the United States. The accelerating intensity of this debate reflects broad disillusionment with the current system – one that continuously fails to meet many students' needs while creating substantial risks of hardship and anxiety.

The focus on broad-based forgiveness speaks to one aspect of this moment: What should policymakers do to provide redress for the millions of individuals still stuck in a system that is failing them? This underlying question deserves attention and action.

But such backward-looking actions are patches on a broken system – doing little to ensure history won't repeat itself. It is essential that we also look forward, seeking the reforms needed for our system to serve all students equitably and humanely. Otherwise, this moment will come again. And more importantly, without meaningful changes, millions of students will continue to face diminished opportunity to safely pursue their educational and career aspirations.

Yet, the current system has proven stubbornly resistant to reform. It has been nearly six decades since the passage of the Higher Education Act of 1965. Despite that, many students still do not have enough funding to complete postsecondary education; 20 percent of federal student loan borrowers are likely to default; and private student loan borrowers have few protections in repayment. Finally, policymakers have struggled for decades to implement accountability measures that ensure programs are offering good value to students. As a result, many programs with poor outcomes continue to serve students.

Getting to an equitable system requires recognizing the persistent barriers that emerge in efforts to reform this system.

First, we have operated under an incomplete conception of the problem facing students. Much of the current system was built to get students money for school. But the fixed-payment student loan model that emerged creates too much financial risk for students and their families; instead, students need tools that share this risk with the funder – tools that automatically ensure affordable payments and a time limit on those payments. The current system also forces students to navigate a vast array of postsecondary options of varying levels of quality. But students need help separating good options from bad.

Second, even with a clear conception of the problem, it is *technically* challenging to build a program that provides students with the funding they need in an equitable way, with robust risk-sharing protections, and in a way that is tied to strong educational pathways. Policymakers have attempted to do this through income-driven repayment (IDR) options and the various accountability measures mentioned earlier. But the process for reforming federal loans is top-down, sluggish, and politicized.

¹ "Student Loan Default Has Serious Financial Consequences." n.d. Pew.org. https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2020/04/student-loan-default-has-serious-financial-consequences.

In contrast, building an equitable finance option requires robust student engagement and continuous design iteration to identify a design that achieves the three goals above for students.

Third, an equitable financing option must be paired with high-quality educational pathways. It is the combination of the two that enable students to achieve their goals. And without strong pathways, it isn't possible to create a sustainable financing tool that is accessible and shares risk with students. However, accountability reforms in federal programs often stall. One barrier is measurement – how to measure the various benefits institutions are providing, the quality of data, and how to treat institutions fairly. The other barrier reflects a deeper reality: Many programs aren't generating strong student outcomes. Yet, many stakeholders fear that cutting off these programs will jeopardize students' access to educational options. The result, however, has been a perpetuation of many programs with poor outcomes – some abusively so.

Considering these challenges, some argue that policymakers should jettison student finance options entirely and pursue no-cost aid options such as free college instead. However, there is strong evidence that this strategy introduces equity risks of its own. First, this does not ensure an innovative and high-quality postsecondary system. Second, many countries that rely primarily on public subsidies lag the U.S. in degree attainment.² Several countries have moved to create income-contingent financing options in service of equity. England, as one study noted, "... moved from a free college system to one in which tuition fees are among the highest in the world." Researchers found that "England's shift has resulted in increased funding per head, rising enrolments, and a narrowing of the participation gap between advantaged and disadvantaged students ..."³

Equitable student finance options are an essential component of an equitable postsecondary system. In combination with sources of no-cost aid, equitable options ensure students have humane tools to safely invest in their future.

It is possible to overcome these barriers and create equitable options. But to do so, we must leverage the private sector in a more purposeful way than has been the case in the past. Specifically, those invested in achieving an equitable student finance system—policymakers, philanthropic funders, practitioners, researchers, and others—should welcome and support the emergence of new private options built around these goals and willing to be held to that standard.

Impact-focused private organizations are well-suited to build new, equitable options, for three reasons: First, they can set clear, measurable goals tied to a complete conception of students' needs – access to funding, risk-sharing protections, and accountability for students' outcomes. Second, they can be nimble, using a continuous process of measurement, student engagement, and learning to get ever closer to these goals. Third, they can avoid the pitfalls that have bedeviled federal accountability efforts – by creating a simpler definition of success rooted in helping students achieve economic self-sufficiency and by helping expand educational pathways that achieve that goal for students.

https://www.aei.org/wp-content/uploads/2019/08/International-Higher-Education-Rankings.pdf?x91208.

² Many European countries with highly subsidized or free higher education systems, for example, fall behind the U.S. on measures of degree attainment and resources available to institutions. (America ranks eleventh out of 35 countries on degree attainment and third in our measure of total resources available to colleges.) See Delisle, Jason, and Preston Cooper. 2019. Review of International Higher Education Rankings: Why No Country's Higher Education System Can Be the Best, American Enterprise Institute.

³ Researchers also noted that "Key to [these outcomes], however, is the ability for students to safely borrow against their future incomes. Unlike systems such as those in place in the US, UK students can access income-contingent loans which cover the full cost of their fees. They can also borrow generous sums for living costs via the same system…"; Murphy, Richard, Judith Scott-Clayton, and Gillian Wyness. 2018. Review of The End of Free College in England: Implications for Quality, Enrolments, and Equity. February 2018. https://www.nber.org/system/files/working_papers/w23888/w23888.pdf.

A thriving ecosystem of private, equitable student finance options would have three significant benefits. First, they would directly benefit students they serve – offering scalable, equitable support to students as a complement to federal programs. Second, the innovation that emerges from these programs would help inform debates around reforming federal loans. Third, and finally, they would help drive a positive cycle of reform and accountability in the postsecondary system itself.

For these reasons, in 2016, I founded Better Future Forward (BFF), a nonprofit focused on building an equitable and scalable model of supporting students pursuing postsecondary education. BFF's focus is historically marginalized students – ensuring a new approach meets the needs of students who feel the shortcomings of the current system most acutely.

BFF uses income share agreements (ISAs) as a tool we believe is well-suited, when used effectively, to building equitable programs for students. To this point, an ISA defines a student's obligation in risk-sharing terms: the student's future obligation is tied to his or her income after school, and the obligation ends after a certain point regardless of amount paid. With this approach, one-off forgiveness isn't required – students are assured that their obligation has an automatic end point.

Since 2015, many other entities have adopted ISAs – including higher education institutions, workforce boards, workforce training providers, and a range of stand-alone companies and nonprofits. Having spoken with many leaders of these efforts, I know they are seeking new tools to address barriers facing populations they serve.

A number of these efforts are showing promising results. Rivet School conducted an exploratory randomized control trial of its ISA offering. They found that students who had the ISA available to them were almost 30 percentage points more likely to be active in the program at the end of the trial period.⁴ Workforce development company MentorWorks reported that its ISA recipients experienced a 217 percent average increase in income after graduation.⁵ In our experience at BFF, 86 percent of our students have graduated within 150 percent of expected time after receiving support.⁶

The broader use of ISAs in recent years has also aroused controversy, on three fronts. First, like all novel and complex financial tools, ISAs can be misused. Second, critics have argued that ISAs are simply a form of loan in disguise – and that describing them as anything but that is misleading to students. Third, critics express fear that ISA providers' claim that ISAs are not a type of loan for regulatory purposes is an attempt at avoiding regulatory oversight.

These are important questions and deserve serious attention. However, the conversation about ISAs often falls into a series of binary, either/or framings that unnecessarily narrow the range of policy options under consideration. This framing also heightens disagreement by forcing participants into rigid, opposing stances. It makes it difficult to see policy options that might be much better than those put forth in the current debate.

Are ISAs inherently good or bad? Are they loans or not? Should support for students be public or private? The reality is more complex: ISAs are a tool that can be used in helpful or harmful ways. Also, like loans, they involve a financial obligation, but they are meaningfully different from conventional, fixed-payment private loans, and we need vocabulary to describe these differences. Finally, we need well-designed federal loans and equitable private options to complement them.

⁴ Castleman, Ben. "Exploring the Causal Impact of Income Share Agreements on Student Outcomes," n.d. https://uploads-ssl.webflow.com/5eb6fb8ca1192839ee0139c5/60a7e3dbd21847b8c88d679f_Rivet%20School%20Pay%20it%20Forward%20Pilot%20R CT%20Report.pdf.

⁵ "MentorWorks ISA Funding Economic Impact & Economic Mobility Analysis," April 28, 2021. https://mentorworks.com/isa-impact-and-economic-mobility-report/.

⁶ Data as of October 2021.

The narrow focus on these binary questions is causing us to lose our way on the map toward a more equitable student finance system. As I argue in the rest of this paper, achieving that goal requires four things:

- I. We must create a shared definition of success for an equitable student finance program one rooted in a clear conception of the problems such programs should be addressing for students. This definition should be agnostic as to the tool being used and whether the program is public or private. In sections I and 2 below, I argue that equitable programs should make financing accessible to all students striving to succeed in school; any payment obligation should be affordable so students do not risk their future financial health; and they should be accountable so that the program's success depends on the educational and career outcomes of its students. Equitable programs should also proactively seek to expand the number of high-quality options available to students driving a positive cycle of systemic reform. With benchmarks like this, we could evaluate all programs, regardless of tool, thus empowering equitable ones to thrive and preventing inequitable ones.
- 2. Philanthropy and impact capital providers must play a central role in helping equitable options emerge. As I argue in section 3 below, building equitable programs is a novel endeavor and requires patience, learning, and a long-term focus on impact. In this context, impact-focused funders must provide a source of affordable and patient capital to help equitable programs grow consistent with these principles. In turn, they should expect programs to go beyond compliance programs should have clear impact and equity goals, use best design practices to achieve them, and measure whether they're being successful.
- 3. We must create new vocabulary for risk-sharing tools. In section 4, I argue the current debate about whether ISAs are "loans" is stuck in a semantic circle because neither option—"loan" or "not loan"—captures important aspects of reality. ISAs and loans both create obligations. But unlike conventional private loans, ISA payments are contingent and have a fixed end point. Thus, calling an ISA simply a "loan" masks an important distinction. Similarly, stating that federal loans with income-driven repayment (IDR) are the same as pre-IDR federal loans—because both are loans—would also be problematic. Beyond semantics, our failure to distinguish between these tools means many consumer protection statutes don't achieve their purposes when applied to risk-sharing tools like ISAs. To remedy this, we need new vocabulary to capture tools that share risk with students—whether "ISA," "income-based loan," "outcomes-based loan," or another term.
- 4. Policymakers should create a consumer protection framework designed to support equitable options and prevent abuse. As with all financial tools, we need strong regulatory oversight to prevent abuse. This means applying our existing consumer protection regime to ISAs, in a way that achieves the goals of those statutes. In addition, policymakers should add new protections—such as a comprehensive limit on the fraction of income students can commit—made possible by the income-based nature of these new tools. In section 5, I discuss these changes in detail in the context of different areas of consumer protection law. They are also highlighted in **Table One**, shown below.

The intense acrimony of the current loan forgiveness debate may make it seem hopeless that any meaningful reforms are possible. But building a better system – one where ad hoc forgiveness isn't necessary because well-designed risk-sharing, affordability, and accountability are at the core of the system's design – \underline{is} possible.

The rest of this paper, then, is designed to serve as a proposed roadmap for how to work through the exercise of getting to an equitable student finance system. I believe the core principles of an equitable student finance system are widely shared, and if we can organize our discussions in this way, we can make great progress toward a better system for students.

Table One: The opportunity to create a stronger, more protective regulatory system

Policymakers should apply existing consumer protection regimes to ISAs—addressing issues with <u>how</u> they apply to this new tool—and add new protections not in current law.

		Current Law (Private Student Loans)	Issues With Current Laws	Proposed ISA Protections
Apply existing consumer protections	Disclosure	Truth in Lending Act (TILA)	Difficult to disclose ISAs using this framework because the cost of financing varies with income.	Mirror existing regime but mapped to elements of an ISA and showing range of costs based on income.
	Fair Lending	Equal Credit Opportunity Act (ECOA)	Without further clarification, this may make it difficult for ISA funders to ensure students are protected from attending institutions not likely to serve them well.	Mirror existing regime with clarifications to address the fact that cost depends on income and to allow providers to consider institutional outcomes within constraints.
	Fair Credit Reporting	Fair Credit Reporting Act (FCRA)	The current credit reporting infrastructure was built for conventional, fixed-payment loans. It does not match elements in an ISA credit reporting framework. It hurts students who do not benefit from credit reporting and makes it hard to grow ISA programs.	Mirror existing regime but create standard for ISA credit reporting.
	Traditional Usury Limits	Various usury limits at the state level	Depending on where these are set, it will limit progressivity of ISAs, potentially hurting those with lower after-school incomes.	Policymakers can apply an upper limit to ISAs but it should be set with recognition of progressive nature of ISAs; use targeted usury limits set at lower levels to protect lower earners.
Apply	Tax Liability	Loan forgiveness not taxable until Jan 1, 2026	There is uncertainty about the tax treatment for ISAs of any underpayment amounts, the treatment of ISAs with respect to employer payments, and tax deductibility of payments.	There should be no tax event, as ISAs are designed to share risk. Also, clarify that employer payments for ISAs can be made pre-tax (as with loans) and payments above the funding amount are deductible.
	Affordability (General)	No limit on monthly payment burden of a loan	Some state laws limit the ability to adjust payments with income, and this limits the ability to make payments affordable for students.	Create a limit on the fraction of a student's income that can go to student's total education finance obligations from all sources.
	Affordability (Low- Income	No requirement for loans to suspend payments during periods of unemployment or low income		No payments due when annualized income falls below the affordability threshold.
otections	Affordability (Hardship)	No requirement for loans to provide forbearance		Mandates minimum number of Payment Relief Pauses months
New protec	Maximum Duration	No maximum time; obligations remain until loan paid in full		All obligations terminate at the end of the payment window or after maximum number of income-determined payments.
	Targeted Usury Caps	No usury caps specific to low earners; just general caps for everyone that are typically high		Lower limits targeted to protect those who end up with low earnings after school.
	Bankruptcy	Higher standard for discharge for loans	The lack of clarity around the status of ISAs means that bankruptcy courts may give these instruments the higher standard of discharge provided to student loans.	Full bankruptcy protection; no undue hardship.
	Default/ Acceleration	Lender can accelerate the full balance due in cases of default		Funders cannot accelerate anything because there is no total obligation to accelerate. The student might owe nothing.



SECTION I – DEFINING SUCCESS FOR EQUITABLE PROGRAMS (PART A): EQUITABLE TERMS

Expanding our conception of the problems we are trying to solve for students

Before discussing the tools or design features of equitable student finance options, we must develop a shared a conception of the problems we hope these tools will address for students. This is essential for evaluating the success of any program.

From <u>access</u> → <u>access</u> + <u>affordability</u> + <u>accountability</u>

It has been almost sixty years since the passage of the Higher Education Act (HEA) of 1965, the law that created the foundation for today's federal grant and loan programs. Policymakers enacted this law to ensure all students have equal access to postsecondary education. When HEA passed, people viewed equal access primarily in financial terms: policymakers created grant and loan programs to help students have the means to afford postsecondary education. **However, this conception of the problem was incomplete in two ways.**

First, students who finance their education need protection from unmanageable obligations in the case they have low incomes after school. With conventional loans, students' monthly payment amounts are fixed and regular, and this fixed-payment structure is not responsive to student earnings, earning fluctuations, and whether payments are financially feasible. Furthermore, short-term relief options, such as forbearance, often push hardship to the future. In the worst cases, students face obligations they will never be able to repay. Also, these risks understandably deter students from considering higher education in the first place. In short, students need tools that share educational and financial risk with funders.

Second, students need access to educational pathways that produce real value for them. Students confront a wide array of educational offerings in a system that ranges from graduate degrees to specialized workforce training programs. The quality of these offerings varies greatly. And in too many cases, a student's chance of graduating is low, the credential's quality is low, or both. It is difficult for many students to assess the value of an educational program before enrolling, and institutions are typically compensated regardless of student outcomes. **Students need access to high-quality, reasonably priced educational options aligned to their success, and mechanisms to help them separate good options from bad.**

Reforms over the past sixty years have been reactionary and incremental – not driven by a fully-defined conception of the problem facing students.

Many reforms enacted since 1965 have responded in an incremental and reactive way to these challenges. For example, to offer federal student loan borrowers greater protections against unmanageable payments, policymakers added income-driven

repayment (IDR) options.⁷ To reduce the likelihood of students attending programs that do not offer enough educational and career value, policymakers added rules, such as Cohort Default Rate (CDR) and Gainful Employment (GE), that exclude programs with poor outcomes from accessing federal aid dollars. Approaching the problem from a different angle, policymakers created programs, such as the College Scorecard, to provide user-friendly data about programs and institutions. The goal is that students use this information to inform their choices about where they attend school.

Although worthwhile in many cases, these reforms have been insufficient to address students' challenges. To this point, roughly 20 percent of federal student loan borrowers still default on their loans despite having access to IDR. In addition, federal policies to ensure programs offer good value have had limited effects, in part because policymakers fear accountability measures might result in students losing access to postsecondary education. In the worst cases, lax accountability has contributed to the rise of predatory institutions enrolling students to access federal funds. Finally, with respect to the original problem of access to financial support, many students still do not have enough funding because of restrictive loan limits or, as is the case for undocumented students, lack of eligibility.

Even as the policy changes over the past several decades have been admirable, they fall well short of what is needed. Many students still do not have enough money to pay tuition, fees, and related expenses; millions struggle with affording student debt; and there is persistent misalignment between students' needs and the interests of schools and funders.

⁷ IDR options allow borrowers to set their monthly payments based on a percentage of their income. They also offer forgiveness of any remaining balance after 20 or 25 years.

^{8 &}quot;Student Loan Default Has Serious Financial Consequences." n.d. Pew.org. https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2020/04/student-loan-default-has-serious-financial-consequences

What students currently face

Consider a hypothetical student named Tiffany, who is typical of the students BFF serves. She lives in Chicago, Illinois, and will soon graduate from high school. She dreams of getting a college degree and would be the first in her family to do so. She wants to become a nurse, and so she plans to study biology when she starts college in the fall.

Tiffany is not sure how she will afford college. In Illinois, if she were to pursue a four-year public college, she would face about \$12,300 per year in costs—even after taking Pell grants and other sources of free money. Federal student loans could help. But as a first-year student, she can only borrow \$5,500 in federal student loans, which would leave a gap of about \$7,000.

After that, Tiffany's options become worse. She could try to take a private student loan. But most of these loans need a creditworthy cosigner, and her mother cannot help. Moreover, private loans are often expensive, with interest rates frequently reaching double digits. Finally, most private loans offer virtually no protections, meaning that Tiffany could face unaffordable debt if things do not go as planned after school. If a forbearance option is available, Tiffany could get temporary relief but would then face a larger unpaid obligation in the future. Finally, because bankruptcy discharge is challenging with student loans, Tiffany would have few options to escape her unmanageable debt.

Tiffany's mother could take a Parent PLUS loan to cover Tiffany's outstanding expenses. But Tiffany's mother is reluctant to take on Parent PLUS debt. These loans have relatively high interest rates and offer few protections to parents who cannot afford the payments.

Tiffany's remaining options are few. She could reduce her



credit hours and work as much as possible while attending school, but her studies would likely suffer, and she would be more likely to graduate late or drop out. ¹⁰ She would also bear added tuition costs and the opportunity cost of lost wages. She could try to go without critical supplies, food, or living expenses, but doing so would jeopardize her personal and academic well-being. Or she could delay paying her tuition expenses. But the unpaid balance could threaten her enrollment status or a successful transfer to another learning institution.

Despite these impediments, Tiffany may become one of the 11% of low-income students who completes a degree by the age of 24.¹¹ But the vast majority do not finish their degree programs, end up graduating late, or enroll programs that do not lead to meaningful career outcomes. And while Tiffany wants to earn a four-year college degree, other students like her want to attend other types of non-college postsecondary options. In today's world, some type of postsecondary credential is increasingly critical to a prosperous and fulfilling life. It is unacceptable that these barriers exist and shameful that they affect

enemy.pdf.

^{9 &}quot;A State-By-State Look at College (Un)Affordability." n.d. Accessed June 28, 2022.

https://ticas.org/files/pub_files/college_costs_in_context.pdf.

¹⁰ "Time Is the Enemy." n.d. Accessed June 28, 2022. https://www.luminafoundation.org/files/resources/time-is-the-

[&]quot;Indicators of Higher Education Equity in the United States - 2018 Historical Trend Report." n.d. http://pellinstitute.org/downloads/publications-Indicators_of_Higher_Education_Equity_in_the_US_2018_Historical_Trend_Report.pdf.

Equitable student finance options—whether public or private, and regardless of tool used—should be accessible, affordable, and accountable.

To advance equity, we should expect any student finance option—whether public or private, and regardless of tool used—to address the three challenges facing students described earlier. Programs should be *accessible*, *affordable*, and *accountable*.

Accessibility

An equitable student finance program should follow the principles of broad access. Eligibility should include all students demonstrating their commitment and ability to advance in their educational program. As such, eligibility criteria should be factors over which students have agency, such as their ability to make satisfactory academic progress. It should not require students to have established a credit history or a cosigner, both of which limit access based on family circumstances over which students have no control. Funds should not be limited to high academic achievers, as many types of students demonstrate they can succeed in and benefit from school. The support would cover supplies and living expenses, enabling students to enroll full-time and focus on their studies.

The design should also be transparent, straightforward, and flexible. Programs should be as simple to understand as possible and fully address any financial impediment that could arise on the way to graduation.

Affordability

An equitable program would also be affordable. To define affordability, we should consider potential circumstances of financial hardship a student could experience with a conventional private student loan. One such instance is an individual becoming unable to afford her monthly payments due to job loss, underemployment, and other external factors. Thus, an equitable finance program should not require payments when an individual earns below a certain minimum-income threshold. Additionally, an individual's monthly payment amount should be based on income to keep payments manageable.

That said, ensuring monthly payment affordability is not sufficient. If reducing monthly payments now increases the amount someone must pay later, it trades relief now for future hardship.¹² An equitable program should end at a certain point, so long as the individual has made any payments required by her income up to that point. Even if the individual's payments did not cover the money received, she would still finish the obligation in good standing. By design, the funder would take the loss. Combining these protections helps ensure the individual's future financial health, even in the case of prolonged low earnings.

Accountability

Finally, an equitable student finance program should be accountable for the outcomes of the students it serves. In other words, student outcomes should sustain the program financially, and funders should share the loss if student outcomes fall short. In the context of a student finance program, there are at least three levers available to a funder to influence student outcomes.

¹² It is worth noting that programs should also be attentive to whether students feel anxiety about their ability to complete an obligation. Even a program with income-based payments and a maximum duration can create significant angst for students if they may pay more in the future in exchange for reduced payments in the present. Addressing this dynamic is an important design question in these programs.

The most obvious mechanism is the elimination of financial barriers students face. If students must work to earn the money for tuition, supplies, or living expenses, they are unlikely to have positive academic experiences and complete their programs of study.

The quality of a student's educational experience also matters. A funder supporting students in attending various programs should be mindful of the institutions' educational outcomes. This process must be handled with care, as there are essential equity considerations that I address later in this paper. But at a basic level, supplying money to educational programs that do not serve students well is a losing proposition for students and funders. Unlike conventional lenders that bear little outcome risk, funders should support students in attending institutions that match their educational and career interests, and from which they are likely to graduate and succeed in their careers. A funder can also build risk-sharing arrangements directly with institutional partners to strengthen performance incentives. In cases where a funder is the educational institution, the alignment is direct.

Finally, the funder should consider the non-academic supports available to students. Many students, particularly low-income or first-generation ones, are likely to need and benefit from support services. These services can help them navigate the complex process of pursuing postsecondary education and transitioning into their chosen field after school. A funder could provide those supports directly, partner with wrap-around organizations, or see that the institutions it is funding via students incorporate supports directly into the educational experience.

It is critical to emphasize that the sustainability of this model differs from that of conventional private student lending. Traditionally, student finance programs have compromised accessibility or affordability to make the program's economics work. For example, private student loans usually rely on a credit score or cosigner-based model, because doing so lowers risk. Another example is private loans offering virtually no affordability protections to students. In contrast, rather than compromising access and affordability, an equitable program should create sustainable economics by helping students to graduate and reach career goals. This means removing financial impediments, funding educational programs with proven records of student success, creating alignment around outcomes, and ensuring proper support networks. Student success then sustains the program.

Developing a shared vision of equitable student finance

Through sharing my vision of an equitable student finance program, I hope to help lay a shared foundation for our public debates about tools like ISAs and conventional student loans. With a common understanding of the problems we're trying to solve, we are able to evaluate whether any program or tool can solve the problems effectively.

The principles of access, affordability, and accountability should apply across a range of educational finance programs. They could focus on traditional college, workforce training, or other programs built to develop human capital. Also, some funders are independent of educational institutions while in other cases, the educational institution is the funder. The principles in all cases are the same: We want the programs to be accessible, affordable, and accountable. They should measure their results against these principles and elevate students' voices in their design processes. Programs tied to institutions should seek to structure their educational program to achieve strong outcomes for all students. Programs not tied to a particular institution should foster a portfolio of educational pathways for a more equitable postsecondary system.



SECTION 2 – DEFINING SUCCESS FOR EQUITABLE PROGRAMS (PART B): DRIVING POSITIVE REFORM OF THE POSTSECONDARY SYSTEM

No-strings attached funding helps perpetuate a negative cycle of poor institutional outcomes. Equitable options focused on outcomes can and must reverse that cycle.

We cannot discuss equitable financial options without acknowledging the relationship between the funding system and the outcomes of the postsecondary system itself. Equitable student finance options depend on students attending good programs that are priced reasonably. Access to these types of high-value programs is unequal – a disparity that equitable finance options can and must help to address. But these underlying inequities can make it difficult to expand access to equitable financing options – creating a risk that these options may not reach all students who can benefit.

For decades, policymakers have struggled with a similar dilemma in the context of adding accountability measures to federal aid programs. A frequent concern has been that imposing accountability measures would jeopardize access. However, not doing so allows institutions and programs with poor student outcomes to continue enrolling students, some abusively. In turn, the continued poor performance of many institutions makes it harder to impose accountability measures.

This negative cycle of perpetuating poor outcomes for students is antithetical to the equitable system we must build. Rather than stepping back from evaluation, equitable student finance options must be built around promoting equitable access and

strong student outcomes. It is not possible to immediately overcome deep historical inequities in the postsecondary system. But we need a system where equitable, outcomes-focused financial support drives a more equitable system over time.

In this context, it is critical to ask how those building equitable student finance options can achieve equitable access and promote this positive cycle of reform within a deeply inequitable system. Two barriers to doing this often emerge. The first relates to measurement – how to assess which institutions are truly doing well by students. The second relates to the fact that in the status quo students have unequal access to high-value programs – and many programs may offer them a negative return.

Rather than stepping back from evaluation, equitable student finance options must be built around promoting equitable access and strong student outcomes.

Assessing whether a program is serving students well

Assessing how a given institution or program serves students is challenging. If not done carefully, using raw outcomes measures can reinforce inequities. As one example, if an institution enrolls a higher proportion of students of color, discrimination in labor markets could disproportionately affect graduate earnings. This would reflect unfairly on the institution. Students also come to postsecondary education with different levels of preparation, sometimes with prior disadvantages. Thus, if funders are not careful about raw outcomes measures, they could end up excluding many sound institutions and programs that enroll a higher proportion of disadvantaged students.

To address this, providers should consider evaluating whether an educational pathway offers *all* students a strong chance of reaching an objective level of economic self-sufficiency. For example, in "Educational Adequacy in the 21st Century," Carnevale, Gulish, and Strohl suggest that an institutions' graduates should earn at least \$35,000 annually.¹³ A standard like this has many benefits. It should apply across all students—we should <u>not</u> accept results below economic self-sufficiency for any student population. And this standard applies even to helping professions, such as social work, that frequently have salary ranges consistent with this definition. A program could set a higher benchmark, as well. This may be critical for populations such as graduate students or those studying for careers in higher-paying professions.

Building an equitable funding program within an inequitable postsecondary system

Even with a well-designed standard in place, our current postsecondary education system is plagued by deep inequities. Students do not have equal access to well-resourced, high-quality programs built around their needs. ¹⁴ If a provider opts to fund only institutions that meet a threshold of student outcomes, this also may exclude institutions and programs that disproportionately enroll historically marginalized student populations.

As mentioned earlier, we must seek to resolve this tension by supporting access *and* student outcomes. Instead of accepting the current system as static, an equitable student finance program should be designed to help students get to high-quality pathways and expand the availability of those pathways over time. While there may be many ways to achieve this, the following three options are worth considering:

Identify pathways meeting the same need for the student.

One approach is to seek other educational pathways that could meet similar needs, are accessible, and have strong outcomes. If the pathway meets the criteria, the funder should make financing available for students pursuing it. The principle of access is *student centered* and broad. It should not guarantee every institution and program financial support, independent of outcomes.

Help institutions improve their outcomes.

Funders should also proactively develop partnerships with institutions or programs that serve large proportions of historically marginalized students, are struggling with student outcomes, and are taking steps to improve those outcomes. In some cases, access to

With time and focused effort, equitable financing options can help student-focused institutions grow, thrive, and expand, supporting equitable systemic reform.

¹³ Carnevale, Anthony, Artem Gulish, and Jeff Strohl. 2018. Review of Educational Adequacy in the Twenty-First Century. The Century Foundation. May 2, 2018. https://tcf.org/content/report/educational-adequacy-twenty-first-century/

¹⁴ One study found that each year, we spend \$5 billion less on students of color than white students because of uneven public funding allocations across public institutions. Garcia, Sara. 2018. "Gaps in College Spending Shortchange Students of Color." Center for American Progress. April 5, 2018. https://www.americanprogress.org/article/gaps-college-spending-shortchange-students-color/.

financial support may be a key impediment for students at an institution, particularly one serving many low-income students. In those cases, there may be opportunities to offer well-designed student financing options to see how they impact overall outcomes. As one example, BFF partners with local nonprofits that provide direct, personalized coaching to students, helping to address support gaps in the current system.

Help new, student-focused institutions develop and grow.

Finally, funders should partner with <u>new</u> postsecondary programs and institutions that offer promising and potentially lower-cost educational programs. For various reasons, it is difficult for new programs and institutions to gain purchase in the federal financial aid system.¹⁵ This can inhibit innovation and valuable new offerings for students. Because performance-based, equitable finance programs focus on institutional outcomes, they are uniquely positioned to help students access new models. Helping these programs grow could expand the number of high-quality offerings available to historically marginalized students.

There is no straightforward method to ensure equitable access within a deeply inequitable system. Well-structured financing options depend on strong educational pathways, but those pathways depend on students having access to well-structured financing options. The relationship is symbiotic. Too often this relationship is negative, with permissive funding supporting institutions with poor student outcomes. With time and focused effort, equitable financing options can help student-focused institutions grow, thrive, and expand, supporting equitable systemic reform.

¹⁵ James, Kevin. 2016. "New Funding, Aligned Incentives: How Private Financing Options Can Foster Higher Education Innovation." American Enterprise Institute. July 26, 2016. https://www.aei.org/research-products/report/new-funding-aligned-incentives-how-private-financing-options-can-foster-higher-education-innovation/.

BFF's mission is to build an equitable financing option for marginalized students

Since 2016, we have developed BFF's ISA program using three design principles of an equitable student finance program: accessibility, affordability, and accountability.

First, we designed BFF's program to be accessible. Students like Tiffany can receive financial support to cover remaining aid gaps after exhausting grants, scholarships, and federal loans. The funds are broadly and transparently accessible to our partners' students making satisfactory academic progress, regardless of grade level. Students can use funds to cover supplies

and living expenses, enabling them to focus on learning (instead of working too many hours). Students can also use them to cover existing balances that may be preventing them from reenrolling. Dreamers with DACA status are also eligible.

Second, we designed BFF's program to be affordable. In the current iteration of BFF's program, students who receive support from one of BFF's community funds agree to make income-determined payments to the fund. Students owe these payments when they are

BFF was founded in 2016 to provide more equitable financing options to students.

employed and earning above \$42,500, adjusted each year for inflation. Student obligations are complete after 120 incomedetermined monthly payments (10 years) based on income above the threshold, or until the 20-year payment window has elapsed, whichever occurs first. We also track what a student would have paid on a loan with a 7.5% interest rate, and if a student's payments ever hit that amount, she finishes the obligation early.

Table Three: Student's payments back to the fund - student received \$10,000

This table illustrates the mechanics of these protections by showing a student's payments back to the fund, assuming the student received \$10,000, under different after-school income scenarios.

Income	Monthly Payments (2.7% of Income)	Total Payments	# of Months	Effective APR
\$30,000	\$0	\$0	240 months	-100%
\$40,000	\$0	\$0	240 months	-100%
\$42,500	\$96	\$11,410	120 months	1.439%
\$45,000	\$101	\$12,150	120 months	2.124%
\$50,000	\$113	\$13,500	120 months	3.283%
\$55,000	\$124	\$14,850	120 months	4.346%
\$60,000	\$135	\$16,200	120 months	5.328%
\$65,000	\$146	\$17,550	120 months	6.240%
\$70,000	\$158	\$18,172	II6 months	6.773%
\$80,000	\$179	\$17,326	97 months	6.772%
\$90,000	\$179	\$17,326	97 months	6.772%

Note: These calculations assume the student is enrolled in school for four years and receives this funding as a first-year student. They include a six-month grace/transition period. For simplicity, the calculations assume the student's income is constant over the term. Dollar amounts are rounded to the nearest whole dollar. In the final three rows, the student would hit the cap, finishing in fewer than 120 income-determined payments. BFF's program also has an upper-income limit of \$79,700 (adjusting for inflation each year); income above this limit is not counted toward the student's monthly payment calculation.

Third, we designed BFF's program to be accountable for the success of its students. Too often, students like Tiffany undertake postsecondary education but lack the non-monetary support necessary for success. Therefore, we've built our programs in partnership with trusted local nonprofits offering mentoring and coaching to historically marginalized students in middle school, high school, and college. BFF's support helps address financial gaps our partners' students face, while our partners provide advising support critical to students' success in college.

We are still developing BFF's capacity to measure its success against the first three program design features. For access, we examine whether we are reaching all students who could benefit and that our program design choices are not producing exclusionary results. In terms of affordability, we engage with students in the payment process. After all, these students may have a different perspective at this juncture versus when they received support in school. We ask whether the students believe they understood the obligation when they first signed up for it and whether they find it manageable in their present situation. For accountability, we measure factors such as students' ability to stay in school, graduate, and transition into careers after school. In response to feedback, we have implemented major program updates in a four-year window to continuously improve the program for students.



SECTION 3 – PHILANTHROPY MUST PLAY A CENTRAL ROLE IN HELPING EQUITABLE PROGRAMS EMERGE

Equitable options require patient capital that enables—and demands—a focus on long-term impact and systemic reform.

Postsecondary education is a complex social system, and it has deep historical inequities that affect the economics of all financing tools. Innovative, well-designed, and equitable financing options can, in time, drive positive change throughout the system. But accomplishing that goal requires funding sources that are aligned to long-term social impact at scale and support programs working to achieve it.

Three aspects of this new approach, in particular, necessitate that philanthropic and impact investing funding sources play a central role in supporting these options: ¹⁶

- I. The need for affordable capital
- 2. The significance of funders in setting expectations around measuring and achieving impact outcomes
- 3. The importance of learning and sharing best practices.

Providing affordable capital

Building equitable programs around these principles is novel. There is little data about how such programs perform, and most of the existing student finance infrastructure conforms to the conventional, fixed-payment private student loan model.¹⁷ Also, the regulatory environment can create outright barriers to building programs around these principles.

Consequently, the initial cost of conventional (commercial) capital for these programs is often high. Commercial sources of capital are ample enough to grow a program to large scale. And once these programs develop a track record of success and

¹⁶ I use the term impact investing to mean "investments made with the intention to generate positive, measurable social and environmental impact alongside a financial return." "Impact Investing." n.d. The GIIN. https://thegiin.org/impact-investing/.

¹⁷ The exception, of course, is the infrastructure around IDR. However, IDR is a very specific implementation of this idea. There are many ways in which new programs would differ from IDR.

uncertainty reduces, the cost of financing should return to traditional levels. Therefore, it can be argued this initial period of high-cost capital would be a necessary phase of learning, data collection, and increasing the number of students served.

At the same time, relying on expensive capital sources would have three concerning consequences. First, students would ultimately bear these costs, and we must ask if that is fair or reasonable. Second, funders would be under pressure to deliver high returns to investors to compensate for risks, potentially at the expense of the various impact goals outlined above. Third, to the degree these capital sources require rapid growth, funders would likely make mistakes, adversely affecting students.

Through their participation, philanthropic funders and impact investors can mitigate these concerns. These funders should provide affordable funding for these novel programs. They should set goals that support long-term focus on impact rather than short-term focus on growth and returns. Additionally, they could provide performance-based funding that encourages ISA developers to iterate solutions and product improvements when issues arise. The cost of proving out and developing equitable finance models would be small in relation to the substantial philanthropic investments made in the higher education sector each year.

To be sure, philanthropic funders and impact investors playing a central role does not preclude the use of commercial capital. In fact, both sources of capital could comprise blended financial structures. These blended structures could leverage philanthropic sources of support to serve greater numbers of students, consistent with the equity goals.

Incorporating impact practices and measurements

Funders should require those building equitable student finance programs to measure student outcomes and build student protections into program governance, design, and evaluation. It should be a baseline expectation that programs offer equitable access, full student protections, and commitment to student outcomes. These programs need and deserve long-term support.

Funders should examine programs with three lenses in the process of establishing expectations. First, does the program's charter mandate these principles as explicit program goals? Second, is the program designed to incorporate best practices and lessons learned on an ongoing, iterative basis? And third, does the program have specific mechanisms for measuring its success against the impact goals of access, affordability, and accountability?

For a suggested set of criteria to use when considering an ISA program, see the Appendix.

Supporting coalitions

Philanthropic funders should support networks of providers that share best practices and help one another build programs that follow the principles. There could be opportunities, for example, to conduct joint academic studies, share data, or execute shared user research projects that inform program improvement. Providers should also work with experts and organizations in adjacent fields—such as financial health and advising—to better understand how to develop equitable programs.

Some will, no doubt, argue that my insistence on a central role for philanthropy and impact investing would restrict new programs from reaching a massive scale. This would, in turn, limit the number of students who could benefit. This concern is not unreasonable, but in response I emphasize two important considerations. First, demonstrating equitable impact through these tools would open opportunities for significant scale. Second, the positive effects of well-designed, equitable finance options would be immense. Rather than pursuing large and rapid scale programs while creating a risk of bad outcomes, we should take the time to achieve equitable impact and grow from there. Through their choices to fund truly accessible, affordable, and accountable programs, philanthropists and impact investors would have the power and platform to stimulate systemic change, which could then lead to larger and more rapid scaling.



SECTION 4 – WE MUST CREATE NEW VOCABULARY FOR RISK-SHARING TOOLS

To build equitable student finance programs, we need the right tools and a common vocabulary to describe them. Specifically, we need financial products that meaningfully share risk with students. We also need to agree on how we define these products, both conceptually and legally.

Defining a risk-sharing instrument

Drawing from our definition of an equitable program, sharing risk means that a student's future payments depend on income at the time <u>and</u> there is a point after which the commitment ends. If a student's income were to be relatively low after graduation, she would be protected from undue financial burden. And if the student reaches the maximum duration of the agreement, the funder absorbs any difference between the original funding amount and the amount paid by the student – with the student finishing the obligation in good standing.

A formal definition of an ISA, therefore, would include the following elements:

- 1. The student has no payment obligation when earning below a defined minimum income threshold
- 2. When earning above that threshold, the student's payments depend on her income¹⁸
- 3. The obligation has a maximum duration after which the student's obligation ceases, so long as the student has made any income-determined payments that were due
- 4. All these elements are available from the start, written into the contract, intrinsic to the instrument, and thus guaranteed to the student.¹⁹

¹⁸ In some types of contracts, payments can be structured as different fixed payment amounts tied to different bands or tiers of income levels, rather than being calculated as a percentage of income.

¹⁹ It is worth emphasizing that nothing in this definition speaks to the structure of the cap on the obligation. ISAs have commonly been thought of as having a cap that is a fixed multiple of a student's funding amount, with some arguing that this fixed-multiple cap structure is what *defines* an ISA. However, there are a variety of ways a cap could be structured, including a cap that grows at an annualized percentage rate. Rather than a particular structure of a cap, this definition emphasizes the downside risk protections—contingent payments and a maximum duration—as the key elements of a risk-sharing tool.

Before continuing, it is worth clarifying the relationship of this definition, and the term "ISA," to the IDR options available to federal student loan borrowers. Because the IDR option links a borrower's monthly payments to his or her income, requires no payments when the borrower is earning below 150% of the federal poverty line, and provides for forgiveness of any remaining balance after 20 or 25 years, the IDR *option* would meet this definition. This is because IDR offers downside protections similar to an ISA. But unlike ISAs generally, IDR is embedded in a traditional, amortizing student loan.

The limits of the term "loan"

There has been a prolonged debate about whether ISAs are technically "loans" or not. This is an important question as relates to interpretation of existing laws and regulations as well as how these tools are marketed.²⁰

But this binary question is also limiting. The reality is neither of these two buckets—"loan" or "not loan"—is serving us well, and as a result we are trapped in a circular semantic debate. Neither of these options fully conveys the necessary information to students nor maps well onto existing consumer protection laws.

Semantics and marketing

From a semantic and marketing standpoint, ISAs and loans are both financial obligations, and they should be conveyed as such. But ISAs are also different from conventional, fixed-payment private loans in that a student's future payments are contingent on their income, and the student's obligation has a time limit. An ISA may also have higher costs in certain circumstances relative to a loan. Students, parents, and other stakeholders should understand these distinctions, but it is challenging to express them when all tools are called by the same term, "loan."

To illustrate this point, consider that it would be a disservice to students and parents to lump together federal student loans, which include IDR protections, with private loans and Parent PLUS loans, which lack these protections. In fact, many students are hesitant to take federal student loans because they are concerned about the negative aspects of fixed-payment loans. They do not appreciate the protections that IDR offers, as imperfect as they are.²¹ To be sure, all these tools are financial obligations, as are ISAs.

Better terminology would differentiate tools that involve a financial commitment but that share risk in ways not available in fixed-payment loans.

But more accurate terminology would differentiate tools that involve a financial commitment but that share risk in ways not available in fixed-payment loans.

Mapping terminology in a legal context

²⁰ And in the past year, the Consumer Financial Protection Bureau has taken the position that they are a type of loan.

²¹ Some readers might object to this point, arguing that IDR has not served as a sufficient safety net for students, given the flaws in its implementation. As mentioned elsewhere in this paper, it is true that IDR is failing to fully protect student borrowers. For this reason, students are perceiving that they face more risk with federal loans—more than would be the case if these issues were to be addressed. Nonetheless, even with its challenges, IDR offers substantial protections beyond those available in a conventional, fixed-payment loan. Therefore, my point is that by describing all these products simply as a "loan," we are doing a disservice to students who do not recognize that federal student loans offer a meaningful level of protection beyond conventional fixed-payment alternatives.

The term "loan" has varied meanings across different laws and regulations – sometimes encompassing contingent obligations and sometimes referring only to commitments involving an unconditional obligation to repay a sum due.²² As a result, if consumer protection regimes designed for fixed-payment loans are applied to ISAs, the results will often be confusing and/or counter-productive. For this reason, it is also critical that legal regimes distinctly reference how ISAs should be treated to ensure the goals of those regimes are upheld given the unique nature of these tools.

We need new vocabulary for risk-sharing tools

ISA describes tools that share risk with students consistent with the definition above. At root, we need vocabulary to describe these types of risk-sharing tools, and we need to use terms consistently for clarity of communication. There is an understandable concern that introducing new language creates risks that students won't understand that a tool involves a financial commitment. One way to address this is to create a definition of an ISA but also say that an ISA is a *type of* loan - so long as statutes and regulations are updated to address how ISAs should be treated. This was the approach taken by the Illinois General Assembly in the Know Before You Owe Private Education Loan Act (HB 2746), enacted in August 2021.

²² To provide some examples of instances in lending law where a "loan" is defined as an unconditional obligation to repay: Odell v. Legal Bucks, LLC, 192 N.C. App. 298. 312-13. 665 S.E.2d 737, 777 (2008) ("[A] transaction in which the borrower's repayment of the principal is subject to a contingency is not considered a 'loan,' because the terms of the transaction do not necessarily require that the borrower 'repay the sum lent,' or return 'a sum equivalent to that which he borrow[ed]."); Lake Hiwassee Dev. Co., Inc. v. Pioneer Bank, 535 S.W.2d 323, 325 (Tenn. 1976) (A loan is "an advance of money with an absolute promise to repay."); Anglo-Dutch Petroleum Int'l, Inc. v. Haskell, 193 S.W.3d 87, 96 (Tex. Ct. App. 2006) (A loan is "an advance of money that is made to or on behalf of an obligor, the principal amount of which the obligor has an obligation to pay the creditor."); Hafer v. Spaeth, 22 Wash. 2d 378, 384, 156 P.2d 408 (Wash. 1945) (overruled on other grounds by Whitaker v. Spiegel Inc., 95 Wash. 2d 408, 623 P.2d 1147, amended, 95 Wash. 2d 661, 637 P.2d 235 (1981)) (A loan is "the advancement of money or other personal property to a person under a contract or stipulation, express or implied, whereby the person to whom the advancement is made binds himself to repay it at some future time, together with such other sum as may be agreed upon for the use of the money or thing advanced."); Val Zimmermann Corp. v. Leffingwell, 107 Wis. 2d 86, 103-04, 318 N.W.2d 781, 790 (1982) (The contingent nature of a borrower's liability to a lender does not establish a loan because there is no understanding between the parties that the amount due on the note shall be repayable absolutely by the borrower.). Still more states have considered this issue in the context of whether a loan is usurious: Valliappan v. Cruz, 917 So. 2d 257, 260 (Fla. Dist. Ct. App. 2005) ("[a] loan agreement is not usurious when payment depends upon a contingency."); Aldrich v. Aldrich, 260 III. App. 333, 362 (III. App. Ct. 1931) (advancement of money with an agreement to return it upon uncertain contingency cannot be a usurious transaction). These examples represent just a subset of examples illustrating this point.



SECTION 5 – POLICYMAKERS SHOULD CREATE A CONSUMER PROTECTION FRAMEWORK DESIGNED TO SUPPORT EQUITABLE OPTIONS AND PREVENT ABUSE

We must apply existing consumer protection frameworks – and use this opportunity to add new protections made possible by the risk-sharing nature of these tools.

When policymakers developed the existing consumer protection regime, much of policymakers' focus was on fixed-payment loans that help students pay for school. In other words, they focused on access but not on affordability or accountability. And as such, the laws in today's regulatory environment often conflict with tools designed to help address a more comprehensive set of barriers. Fortunately, we can update our consumer protection laws to ensure students are properly protected, support these new tools when implemented well, and add new protections not possible with conventional loans.

Our consumer protection regime in context

We now examine the substantive elements of consumer protection laws, emphasizing three points:

- I. While the principles of these laws—such as the federal Truth in Lending Act (TILA)—form a foundation for student protections, many require updating to achieve their purpose in the context of ISAs;
- 2. Aspects of these laws conflict with creating equitable programs; and
- 3. The income-based nature of ISAs allows policymakers to develop new regulatory protections not available with conventional private loans.²³

Critical areas of consumer protection include disclosures, affordability of monthly payments, fair and reasonable pricing, prepayment, default, credit reporting and bankruptcy, tax treatment, and fair lending laws. It is in these areas of law that the

lt is not the intent of this section to speak to whether or how ISAs fall under existing federal or state statutes. These are critical questions. In this section, however, I ask a deeper question about achieving the goals of these laws. Specifically, this is whether applying these laws as written achieves their goals with risk-sharing ISAs, whether applying them as written conflicts with equitable

applying these laws as written achieves their goals with risk-sharing ISAs, whether applying them as written conflicts with equitable design principles and whether the risk-sharing nature of ISAs creates opportunities for new protections.

most significant issues emerge in the context of ISAs—that is, where the application of the law as written to ISAs contradicts the principles of equitable finance or undermines the goals of the law.

Some may wonder whether the existence of federal IDR plans shows that current laws do *not* hinder the implementation of risk-sharing programs like ISAs. However, IDR is a federal program and not subject to certain laws, such as TILA. Some that do apply—such as laws around tax treatment and credit reporting—make IDR clumsier and less protective, just as they do with ISAs. Thus, the existence of IDR does not contradict these claims. And where IDR faces similar challenges, it makes the importance of this analysis even more clear.

Clear disclosure of the obligation terms

A core aspect of consumer protection is proper disclosure of a financing option's terms and conditions. Anyone who has taken out a credit card, a mortgage, or another type of consumer loan is likely familiar with these disclosures. They typically include the amount financed; the finance charge in dollars; and the annual percentage rate, which expresses the cost of financing as an effective interest rate. These disclosure items appear in boxes at the top of the disclosure document. Policymakers designed this format for installment loans, where the repayment schedule and costs are known upfront, or a lender can estimate the costs reasonably well.²⁴

Properly disclosing a financing option's terms is critical.

This disclosure framework and format do not make sense for ISAs. Under ISAs, future monthly payments are contingent on students' post-graduation incomes and the financing agreements provide fixed endpoints for payments. This means that the amount a student will pay on the obligation is unknown and could vary significantly. A disclosure document in the standard format—with a single financing charge and APR calculation—cannot show everything students need to evaluate an option with full income-based protections.

A disclosure for a tool providing these risk-sharing protections should show the amount the student would pay under a range of income scenarios, including an "effective APR" column that shows the amount paid in each scenario converted to an equivalent APR. This would give the student a complete picture of possible outcomes, which is essential to effectively compare the ISA to other products.

While typical disclosure frameworks highlight loan costs, disclosing *financial burden* would provide another meaningful measure of affordability. To this end, a table showing how much a student might pay under different income scenarios could show the corresponding burdens of the obligation, expressed as a percentage of income. For an ISA, this burden will always be the same; for a conventional private loan, the burden will be greater in lower-income scenarios.

²⁴ It is also used in the case of variable interest rate loans, in which the funder can convey easily how the interest rate will vary with external market indicators.

Affordable monthly payments

Well-designed and equitable student finance tools should have mechanisms that ensure affordable monthly payments. This notion of affordability should encompass the entirety of an individual's education finance obligations, including existing student loans a student may have taken in the past. To support this, policymakers should require ISA funders to consider a student's obligations holistically before a student enters into an agreement.

Policymakers should require ISA funders to consider a student's obligations holistically before a student enters into an agreement.

Existing consumer lending laws do not have mechanisms to assure reasonable monthly payment affordability for private student loans, and the nature of conventional student loans makes building such a protection challenging.²⁵ Consequently, private student loans can consume substantial portions of students' post-graduation income. In addition, some states' statutes make it difficult to adjust payments with income, unintentionally undermining the goal of affordability.²⁶

Fortunately, the structure of ISAs makes it possible to build a guardrail to ensure students are not assuming unmanageable education obligations. Because ISAs tie payments to income, it is possible to limit the fraction of future income students can commit. Policymakers, therefore, should add the following protections:

- 1. The law should specify that ISAs include an income threshold that meets minimum standards to protect those with low earnings;
- 2. The law should prevent providers from entering into agreements with students if doing so would cause them to commit, with their other education finance obligations, an overall percentage of future income that is beyond a certain limit: ²⁷
- 3. The law should require a minimum number of months where an individual can pause payments even if their income is above the income threshold, helping with situations where the individual's income-based payment is temporarily unaffordable due to unexpected expenses; and
- 4. The law should require that ISAs have a reasonable maximum duration.

²⁵ In other consumer lending contexts, such as mortgages, ability-to-repay laws require lenders to evaluate a borrower's current income to assess their ability to meet a monthly payment obligation. However, postsecondary education is different in that ISA providers underwrite against future income. Because a primary purpose of educational investment is to increase earning potential, a student's future income should differ significantly from before-school income. Not only do the ability-to-repay frameworks not apply to private student loans, but it is also difficult to see how a conventional ability-to-repay could apply to conventional student loans given the range of post-school outcomes, including unemployment.

²⁶ These state laws require that payment amounts on an installment loan be "substantially equal." These protections were developed for other purposes outside the context of education finance, but they undermine the goal of affordable payments for education financing.

²⁷ There is an important technical question in this process. If an ISA provider must evaluate a student's existing education finance obligations to ensure a new ISA would not push a student's future commitment over a defined limit, the provider must have some mechanism for converting a student's existing loan obligations into a percentage burden. This is challenging because student loans often have fixed payments, which are not expressed as a percentage of income. Nonetheless, I believe it is possible to properly convert a student's loan obligations to a percentage burden. For each loan obligation a student has, a provider should look at various income levels (starting at the threshold of the ISA under consideration) to identify the highest percentage burden that the required payments could create. This is assuming the individual takes advantage of the most affordable repayment option available under that loan. After performing this calculation for each loan a student has at the time of considering the ISA, the provider could sum the percentage burdens for each of the student's existing loans. The student could use the amount remaining for additional financing.

Ensuring fair and reasonable pricing

An ISA can be clearly disclosed and offer affordable monthly payments yet still have unreasonable pricing terms. To illustrate, I will use an extreme example. Consider that your monthly payments will likely be affordable if you agree to pay three percent of your income for five years under an ISA. However, if the funder only gives you \$5 in exchange for that commitment, you will pay a high effective cost of financing. In this case, the funder will earn a high return in almost every outcome, even ones in which your earnings are low but still above the income threshold. This ISA is not sharing risk. The funder is reaping the benefit regardless of the student's outcome.

It may be tempting to look to traditional usury laws to address this challenge. Usury laws limit the allowable interest rate on a loan to protect borrowers from high finance costs. In the context of a traditional loan, in which a borrower must pay back the amount owed with interest, usury laws make more sense. However, with an ISA, the amount a student will pay depends on future income. High earners pay more, up to a limit; and low earners pay less or nothing.

These proposed protections could offer lower-earning individuals stronger protections than those traditional usury laws provide.

For this reason, applying usury limits to ISAs can be counterproductive. Specifically, the usury limit restricts the payments of the highest earners. As an analogy, consider the effects of limiting the amount of tax high-income families pay. To make up for such a tax cap, the tax rate for lower- or middle-income families would need to be higher. In the case of ISAs, policymakers should understand that a usury limit

would protect the highest-earning graduates at the expense of graduates with lower earnings.

Ensuring fair and reasonable pricing with ISAs requires examining what students who earn slightly more than the income threshold would pay under the ISA. If those students still pay a high effective cost of financing, then the ISA may not be appropriately sharing risk. In other words, with an ISA, the funder's outcome should link to the student's outcome. Policymakers should thus establish limits to ensure that an ISA's pricing is such that if a student comes out of school and earns a relatively low amount, he or she does not face a cost of finance that is excessive for that earnings level. Because this approach creates targets tied to lower earnings profiles rather than making them universal, policymakers can set those limits at lower levels than typical usury limits without undermining the progressive nature of an ISA. As such, these limits could offer individuals who experience lower earnings after school stronger protections than those traditional usury laws provide.

Prepayment and early completion

As with prepayment with loans, ISAs should make it possible to satisfy the obligation early, if the student desires. That said, the risk-sharing nature of ISAs changes the dynamics of this process. Thus, policymakers should not impose existing laws related to prepayment. They should, instead, create early completion requirements specific to the nature of ISAs.

Prepayment enables loan borrowers to finish their obligations early and reduce the amount of interest they will pay on their loans. However, loan prepayment is much more helpful to those who are *not* struggling to repay—those with higher incomes and the means to prepay or refinance. It is not very helpful to individuals with lower incomes after school. They are likely struggling to afford their payments and unlikely to be able to refinance.

Policymakers should not impose existing laws related to prepayment. They should, instead, create early completion requirements specific to the nature of ISAs.

ISAs are designed to invert this situation, offering intrinsic protections to those with low income. With an ISA, an individual's obligation isn't fully known at the start. A student may ultimately have no obligation if her earnings are persistently below the income threshold. As a result, there isn't an amount to prepay as is the case with a loan. In fact, prepaying may not be advantageous, in that a student could "prepay" more than what she would have owed based on her later income. The insurance value of the ISA is beneficial to individuals with lower income staying in the ISA.

To offer these protections, those with higher incomes must bear more of the costs. Typically, to end an ISA early, an individual must pay an amount equal to the cap or early completion amount of the ISA minus any payments already made. In short, fixed-payment loans offer flexibility for those with high incomes and they create hardship for those with low incomes. ISAs, in contrast, offer protection to those with low incomes and those with higher incomes pay greater amounts.

Given these differences, policymakers should not impose the loan concept of prepayment on an ISA. Mandating that students who end up earning a high income be allowed to prepay their ISA at their funding amount (plus some notion of accrued interest) could undermine the economics of an ISA program. Instead, policymakers should require that ISAs include a mechanism for early completion. This mechanism would require payment of only the ISA's cap/early completion amount, minus payments already made. This would ensure that high earners have limitations on their obligation, consistent with policy goals, while low- and middle-earners have the protective value of the ISA.

Some may have concerns about predatory ISAs that are unduly expensive, even for low earners. But the solution to that challenge is to impose strong guardrails to ensure ISAs are priced fairly, as was described in the earlier section on usury and fair pricing of ISAs. Others may argue that even high-earning students should not have to pay more than what they might have paid on a loan. However, this critique does not fully consider the trade-offs involved. Like taxes, if an ISA is restructured to limit the obligation of high earners, lower- and middle-income earners would have to make up the difference.

Default and bankruptcy

Consumer protection laws, developed for conventional private loans, do not work well with ISAs in situations of default and bankruptcy. First, current law <u>allows</u> certain practices for loans but should <u>prohibit</u> those practices for ISAs. Second, ISA funders should have appropriate tools to support compliance with an ISA obligation.

Lenders typically have the right to "accelerate" a loan obligation, demanding payment in full when a borrower fails to follow the terms of the agreement. In contrast, with an ISA, the amount a student may owe in the future is unknown. The amount could be zero dollars. For this reason, ISA providers should <u>not</u> be allowed to accelerate ISAs.

Due to the differences between an ISA and a conventional private loan, ISAs should not be reported using loan reporting frameworks. For example, with an ISA, when an individual is earning below the income threshold amount and has no payment obligation, the provider should report the ISA as being in good standing during that time. ISA providers should not report a future balance due since future amounts owed, if any, are unknown. Instead, they should report only unpaid, past due amounts, payments made, and the ISA's key terms. Without a unique credit

Current law <u>allows</u> certain practices for loans but should <u>prohibit</u> those practices for ISAs. ISA funders should also have appropriate tools to support compliance with an ISA obligation.

reporting framework for ISAs, providers lose a vital tool for supporting compliance and students lose the benefit of positive credit reporting. Policymakers should support the development of credit reporting standards specific to ISAs to address these gaps.

Additionally, student loans have a higher standard of discharge in bankruptcy. This is known as the 'undue hardship' test. To have a student loan discharged in bankruptcy, a struggling borrower has the burden of showing that making payments does not allow for a minimal standard of living and that this condition will likely persist through the duration of the obligation. In many cases, it can be difficult—if not impossible—for individuals to escape a private student loan obligation. By contrast, ISAs already protect against unforeseen circumstances. Because payments are affordable and there is a fixed duration to the obligation, an ISA's design should prevent it from creating undue hardship. Nonetheless, because of the novelty of ISAs and the importance of protecting students, policymakers should *not* apply the higher standard of discharge to ISAs. That is, ISAs should be easier to discharge than student loans. In the bankruptcy process, ISA funders should be able to make a claim for past, unpaid monthly payments that came due based on income. But the remainder of the ISA should be fully dischargeable in the same manner as non-education debts.²⁸

Finally, because ISA funders need regular information about an individual's income to set their payment obligation, funders should have reasonable and fair methods to support compliance. First, policymakers should provide a means for students to authorize, on a prospective basis, the IRS to share with ISA funders the specific tax information necessary to automatically verify their income on an annual basis. Second, funders need a way to set an individual's monthly payments when they have not yet received tax transcripts, or such transcripts are not available. If the funder has no prior evidence of a student's income, policymakers should allow the funder to make reasonable assumptions about income. In these cases, the funder should notify individuals and retroactively adjust an individual's obligation if they provide evidence of income within a reasonable time frame, such as a year.

Tax treatment

ISAs provide extra protection to students with lower post-graduation earnings. Some students will pay less than their funding amount, and some will pay nothing. This protection is a feature of ISAs and not a design flaw. Policymakers should clarify that students using ISAs will not be taxed on any difference between their payments and original funding amounts, particularly since ISA students never agree to pay that amount. Otherwise, any such tax obligation would invalidate the protection ISAs offer to low-earning graduates.²⁹

Policymakers should clarify that students using ISAs will not be taxed on any difference between their payments and original funding amounts.

Policymakers should also clarify that employer payments to employees with ISAs can be made on a pre-tax basis. Also, they should include that an individual's payments above the funding amount of an ISA should be deductible on the individual's taxes. The law allows for both with traditional loans.

Fair lending laws

The Equal Credit Opportunity Act (ECOA) is a framework for ensuring students have equal access to credit products and lenders do not engage in discriminatory behavior. Policymakers should explicitly apply this framework to ISAs. However, they should also clarify two aspects of the ECOA framework to support critical features of well-designed ISA programs.

²⁸ That said, policymakers should clarify that a bankruptcy judge should *not* impute an unpaid future balance to an ISA since that obligation is not known. This is an important protection for students.

²⁹ For similar reasons, policymakers should change the tax code so that forgiven balances under IDR are not treated as taxable income. Currently, this treatment is only available through January 1, 2026.

First, with a loan it is possible to look at the terms, such as the interest rate, to determine whether a lender is charging one group more than another. However, looking at an ISA's terms is not enough to determine this because the cost to the student depends on their future income. For this reason, policymakers should clearly require regulators to consider the amount students pay during the payment term to assess a program under ECOA's disparate impact framework.³⁰ Of course regulators should look at other relevant decision points—such as denial rates—used in traditional disparate impact analysis.

Policymakers should explicitly apply the ECOA framework to ISAs.

However, they should also clarify two aspects of the ECOA framework to support critical features of well-designed ISA programs.

Second, the ECOA framework may make it difficult for ISA providers to choose not to fund institutions that have poor student outcomes. ISAs can help address inequities in the educational system, and part of that is guiding students to attend institutions that will serve them well. However, an ISA providers' decision not to fund an institution or program with poor outcomes could cause disparate impacts to a protected class if the institution disproportionately serves that class. Fair lending statutes should not be the means to require providers to fund institutions with bad outcomes. To this end, policymakers should specify that this type of outcomes-based underwriting is a sound practice, so long as it is the least discriminatory way to accomplish the goal and providers have other options that serve those students. These changes would preserve the ECOA's anti-discrimination goals while ensuring students attend high-quality educational programs. Of course, these mechanisms should not become tools by which providers limit eligibility to a subset of elite institutions. Instead, they should provide a mechanism through which providers can limit the eligibility of institutions with truly poor outcomes.

The table below summarizes this discussion of the interactions of ISAs and various consumer laws.

³⁰ To illustrate this point, some ISA programs will vary certain contract terms—such as the income percentage or the maximum duration of the ISA—based on a student's major. The goal is to ensure that students pay the same amount, on average, after school. For example, in such a program an English major might pay a higher percentage of income but have a lower average income after school. An engineering student might pay a lower percentage of income but have a higher average income after school. In this case, looking solely at the income percentages offered across majors would create the impression that English majors are offered ISAs that are more expensive. However, when one considers the actual incomes of graduates from these majors, and assuming the results support the program's model, then students in these two majors will ultimately pay the same amounts on average.

Table One: The opportunity to create a stronger, more protective regulatory system

Policymakers should apply existing consumer protection regimes to ISAs—addressing issues with <u>how</u> they apply to this new tool—and add new protections not in current law. (The table below is repeated from the introduction.)

		Current Law (Private Student Loans)	Issues With Current Laws	Proposed ISA Protections
Apply existing consumer protections	Disclosure	Truth in Lending Act (TILA)	Difficult to disclose ISAs using this framework because the cost of financing varies with income.	Mirror existing regime but mapped to elements of an ISA and showing range of costs based on income.
	Fair Lending	Equal Credit Opportunity Act (ECOA)	Without further clarification, this may make it difficult for ISA funders to ensure students are protected from attending institutions not likely to serve them well.	Mirror existing regime with clarifications to address the fact that cost depends on income and to allow providers to consider institutional outcomes within constraints.
	Fair Credit Reporting	Fair Credit Reporting Act (FCRA)	The current credit reporting infrastructure was built for conventional, fixed-payment loans. It does not match elements in an ISA credit reporting framework. It hurts students who do not benefit from credit reporting and makes it hard to grow ISA programs.	Mirror existing regime but create standard for ISA credit reporting.
	Traditional Usury Limits	Various usury limits at the state level	Depending on where these are set, it will limit progressivity of ISAs, potentially hurting those with lower after-school incomes.	Policymakers can apply an upper limit to ISAs but it should be set with recognition of progressive nature of ISAs; use targeted usury limits set at lower levels to protect lower earners.
Apply	Tax Liability	Loan forgiveness not taxable until Jan 1, 2026	There is uncertainty about the tax treatment for ISAs of any underpayment amounts, the treatment of ISAs with respect to employer payments, and tax deductibility of payments.	There should be no tax event, as ISAs are designed to share risk. Also, clarify that employer payments for ISAs can be made pre-tax (as with loans) and payments above the funding amount are deductible.
	Affordability (General)	No limit on monthly payment burden of a loan	Some state laws limit the ability to adjust payments with income, and this limits the ability to make payments affordable for students.	Create a limit on the fraction of a student's income that can go to student's total education finance obligations from all sources.
	Affordability (Low- Income	No requirement for loans to suspend payments during periods of unemployment or low income		No payments due when annualized income falls below the affordability threshold.
rotections	Affordability (Hardship)	No requirement for loans to provide forbearance		Mandates minimum number of Payment Relief Pauses months
New protec	Maximum Duration	No maximum time; obligations remain until loan paid in full		All obligations terminate at the end of the payment window or after maximum number of income-determined payments.
	Targeted Usury Caps	No usury caps specific to low earners; just general caps for everyone that are typically high		Lower limits targeted to protect those who end up with low earnings after school.
	Bankruptcy	Higher standard for discharge for loans	The lack of clarity around the status of ISAs means that bankruptcy courts may give these instruments the higher standard of discharge provided to student loans.	Full bankruptcy protection; no undue hardship.
	Default/ Acceleration	Lender can accelerate the full balance due in cases of default		Funders cannot accelerate anything because there is no total obligation to accelerate. The student might owe nothing.



CONCLUSION

As we approach the sixtieth anniversary of HEA, students like Tiffany still face tremendous obstacles in pursuing postsecondary education.

The simple provision of money is not enough. Students need accessible, affordable funding options and a system in which funders and institutions are accountable to and aligned with appropriate educational and career outcomes. The three critical design features of accessibility, affordability, and accountability should be the benchmark for all student finance tools.

Students need accessible, affordable funding options and a system in which funders and institutions are accountable to and aligned with appropriate educational and career outcomes.

ISAs are the only tool I have encountered that merge all three design features. For this reason, policymakers should implement reforms that enable equitable ISA programs to flourish. These reforms should also take advantage of the risk-sharing nature of ISAs to strengthen our regulatory regime relative to the protections in place currently. As a complement to public dollars, a thriving ecosystem of equitable ISA options would significantly enhance equity and opportunity in our postsecondary system.

APPENDIX: PROGRAM EVALUATION CRITERIA

The criteria below represent a proposed framework that philanthropic funders and impact investors could use to evaluate an ISA program.

Accessibility

Governance (Accessibility)

	Access mission. A mission and/or charter for the program that reflects goals of reaching all student populations, including historically marginalized students, who can benefit and have demonstrated a commitment to advancing in their education.
	Meeting students where they are. A commitment to meet students where they are, particularly given the complexities many historically marginalized students face in their lives.
Design ((Accessibility)
	Transparent eligibility. Transparent eligibility criteria that make it possible for students to assess at an early stage whether the program is an option for them.
	Living expenses. Coverage of living expenses and other non-tuition expenses that often serve as an impediment to the success of historically marginalized populations.
	Sufficient funding. A commitment to provide sufficient funding through the program to give students a strong chance of being successful in their program.
	Coverage of all grade levels. Coverall of all stages of a student's education given that financial need is not unique to higher grade levels.
	Existing balances. Where relevant, allow students to cover non-traditional expenses such as unpaid school balances that often force students to stop out.
	Simple and flexible application. A simple and flexible application process that does not add unnecessary complexity to students' navigation of financial aid processes.
	Broad access . Access not restricted by credit score or the absence of credit history, nor restricted by criminal history except in the limited circumstances where such restriction is required for a target occupation; in addition, eligibility should seek to reach all students who can benefit, not simply the top students academically.
	Dreamers. Strives to include undocumented students, particularly those enrolled in the Deferred Action for Child Arrivals (DACA) program
	Appeals processes. Appeals processes that allow students who do not meet eligibility criteria the opportunity to

Results (Accessibility)

	Broad participation. Ongoing measurement and analysis of the demographic and educational characteristics of the program participants to ensure the program is not inadvertently excluding populations that could benefit— with a commitment to updating the program design and eligibility in response to this data.
	Engagement . An established process of ongoing engagement with historically marginalized students to understand ways in which the program could better meet their needs or reach other historically marginalized students who may be currently excluded.
Afford	lability
Governo	ance (Affordability)
	Protection mission. A mission and/or charter for the program that expresses the primacy of protection in the program's mission, standing before even financial sustainability and, where applicable, profitability – even if these latter goals are also critical to the program's success.
Design (Affordability)
	Robust advising processes. One-on-one advising with students that follows a "trusted advisor" model of identifying what is in the student's best interest, with advising including a discussion of the costs the student is facing, other options that may be equally advantageous, an explanation of the ISA, the fact that the ISA involves a financial commitment, and an opportunity for students to see "the numbers" about how much they may pay on the obligation.
	Proactively addressing complaints. Processes for elevating and proactively addressing complaints from students, done with a spirit of listening and learning that sends a message to students about the importance of their feedback.
	Dealing with delinquency with a spirit of generosity and learning. Engaging with delinquent students with a spirit of generosity and learning—while upholding the importance of the student's commitment to the sustainability of the program, also working to understand the student's circumstances and whether flaws in the program's design have contributed to hardship; policy of not engaging outside collections entities unless they uphold these values.
	Care with potentially misleading language. Avoidance of terms like "debt-free" and "interest-free" that, while potentially technically correct depending on their usage, can easily be misinterpreted by students.
	Transparency in how the product works. Descriptions and examples about the ISA program should be designed to illuminate, not obfuscate—particularly given the novelty of these instruments. Providers should seek to be transparent about the economics of the model so students can make their own decision as to whether they buy into the value proposition. Providers should also disclose key program documents such as the ISA contract.
	School certification. Third-party providers should engage with school financial aid offices to perform ISA certification, including working to ensure that financial aid offices properly package the ISA (as an alternative to a private loan and not displacing grants, scholarships, or federal loans).
Results ((Affordability)
	Engagement about and assessment of the payment experience. Ongoing engagement with students in the payment process to capture elements of their experience, including: (1) general satisfaction levels, (2) the degree to

which they feel, in retrospect and now that they are in the payment term, that they understood the contract they were signing, and (3) if they feel the ISA (or the ISA in combination with other commitments) is creating hardship for them – with a commitment to updating the program design and affordability benchmarks in response to ongoing feedback.

Accountability

Govern	ance (Accountability)
	Outcomes mission. A mission and/or charter for the program that expresses its goals fundamentally in terms of educational and career outcomes for the students being served, as well as broader societal impact goals—such as helping to drive expansions in the availability of high-quality pathways—as applicable.
	Pathways in addition to money. An organizational belief that the money provided through the program should be paired with other elements of a strong educational pathway to ensure students have a strong chance of being successful.
Design	(Accountability)
	Strong focus on the quality of education pathways. A well-considered process for assessing and assuring the strength of the educational pathway(s) for which students are being funded as part of the program, including through an analysis of the supports and other services available to students, the educational outcomes of the institution, and/or the development of explicit risk-sharing processes between the ISA funder and the institution.
	Transparency about investor relationships. Transparency about the nature of the provider's relationship to investors, particularly with regards to how the involvement of external investors may reduce the degree to which the ISA funder may bear the risk of poor student outcomes.
	Reaching programs with strong outcomes for historically marginalized students. If applicable, such as for ISAs not based at an educational institution, work continuously and creatively to identify high-quality educational pathways—such as combinations of postsecondary education institutions and supports provided by community-based organizations—that can help reach previously unserved populations who stand to benefit from the program.
Results	(Accountability)
	Measurement of outcomes. Ongoing measurement of key student outcomes related to the program's theory of change—for example, elements such as persistence, graduation, hours worked during school, and nature of the first job after school—including processes to push continual innovation to continuously improve outcomes, particularly where they shall short of expectations.
	Data collection and engagement. A robust process of data collection and student engagement to investigate and validate each element of the program's theory of change to understand more fully how the program can be improved and where breakdowns in the theory of change may be occurring