



Student Loan Law

An Overview[®]

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Topics Covered

- Types of student loans:
 - Federal vs Private, The Players, Types of Federal Loans
- Delinquency and default aversion: Temporary and Permanent
- Consequences of default
- Curing default
- Staying out of Default
- Protecting borrower's rights
- Public Service Loan Forgiveness



Topics NOT Covered

- School closing
- Non-refunded loans
- Proprietary school issues



Types of Student Loans

- Federal
- Private
- Hybrids

Key difference is the available remedies!



Federal Student Loans

The Players:

- Third Party Debt Collectors
- Servicers
- Private Banks
- Guarantors
- Department of Education



Federal Student Loans

Federal Family Education Loan
Program
“FFEL(P)”

William D. Ford
Federal Direct Loan Program
“Direct Loan”

Originator = Bank or Guarantor

- Bank is insured by Guarantor
- Guarantor is insured by Dept of Education

Originator = Dept of Education



Federal Student Loans

Types of Loans:

- Stafford
 - Subsidized
 - Unsubsidized
- PLUS
 - Credit matters
- Perkins
 - Originated by school



Default Aversion

Delinquency < 270 days late < Default

Temporary fix:

- Deferment
 - Economic Hardship
 - Unemployment
- Forbearance
 - Mandatory
 - “At Will”

Permanent fix = Affordable payments!



Consequences of Default

- Collection calls (watch for potential FDCPA violations)
 - Up to **25%** collection fee!!
- Tax refund intercept
- Social security offset
 - 15% BUT must leave \$750
 - Includes SSDI, NOT SSI
- Wage garnishment (Administrative)
 - 25% of disposable pay
- DOJ lawsuit



Curing Default

- Discharge
 - Disability
 - Immediate (used to take 3 years)
 - Cannot work AT ALL, Doctor sign-off required
 - Bankruptcy (discharge is extremely rare)
- Consolidation
- Rehabilitation
 - Cleans credit of negative reporting



Affordable Payments

- 10-year standard
- Extended, up to 30 years, based on balance
- Graduated
- Extended graduated
- Income Contingent/Sensitive “ICR” or “ISR”
 - Based on income and loan balance
- Income Based “IBR”
 - Based ONLY on income



Protecting Borrowers

- Federal – FDCPA
 - Debt Collectors ONLY!
 - Often misrepresent options to borrowers
- State – Creditor Collection Laws/UDAP
 - Guarantors and Servicers
 - HEA’s lack of private right of action is not a bar
 - HEA *might* pre-empt in certain situations



Public Service Loan Forgiveness

- Qualifying jobs
 - Government
 - Non-profit
 - Few exceptions
- Qualifying payments
 - 10-year Standard, ICR, or IBR
- Applying for PSLF
 - No idea...
 - Save stubs and proof of payments!



How to Help Clients

- If in default
 1. Cure default
 - Rehabilitation if credit matters
 - Consolidation for quicker fix
 2. Affordable payments – IBR
 - SS recipient's payment usually equals 0!
- If not in default but needs affordable payments
 1. Apply for IBR
- Always analyze for disability discharge



IBR Payment Chart

		Total Household Income					
		\$25,000	\$50,000	\$75,000	\$100,000	150,000	\$200,000
Number in Household	1	\$50	\$420	\$730	\$1,050	\$1,670	\$2,300
	2	\$0	\$350	\$660	\$970	\$1,600	\$2,220
	3	\$0	\$280	\$590	\$900	\$1,530	\$2,150
	4	\$0	\$210	\$520	\$830	\$1,460	\$2,080

The numbers above represent the monthly total household payment due. For example, if a couple with no children has a total household income of \$100,000, the husband's and wife's monthly federal student loan payments would add up to \$970. The portion each pays would be based on the ratio of their federal loan balances.

Figures from www.ibrinfo.org/calculator.php



Other Repayment Plan Chart

Original Loan Amount	\$25,000	\$50,000	\$75,000	\$100,000	150,000	\$200,000
10-Year Standard	\$288	\$575	\$863	\$1,151	\$1,726	\$2,301
Extended	N/A	\$347	\$521	\$694	\$1,041	\$1,388

Figures from www.direct.ed.gov/calc.html with an assumed interest rate of 6.8%



Useful Resources

- IBR – www.IBRinfo.org (great IBR calculator)
- Repayment calculator - www2.ed.gov/offices/OSFAP/DirectLoan/calc.html
- NCLC site: www.studentloanborrowerassistance.org
- Dept of ED: www.ombudsman.ed.gov, 877-557-2575
- Loan Consolidation: loanconsolidation.ed.gov
- NSLDS: www.nslds.ed.gov/nslds_SA
get current federal loan status
information here



Useful Resources

- FinAid: www.finaid.org/questions/advocacy.phtml
- Forms: www2.ed.gov/offices/OSFAP/DCS/forms.html
- Federal Student Aid Library:
www.ifap.ed.gov/ifap/iLibrary.jsp
- Joshua Cohen, 860-233-0338,
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