No different than discharging federally guaranteed loans, the debtor must show undue hardship, or demonstrate that the loan is not a "qualified educational loan." In bankruptcy, there no longer exists a difference between private and federal student loans for discharge purposes

[Eric Gassman](http://www.linkedin.com/groups?viewMemberFeed=&gid=98511&memberID=81004282) •While Michael and other are correct that a private student loan and a federal student loan are treated the same under the code. However, not all "student loans" are indeed student loans. From what I have come to understand through some research, is that a student loan of the type excepted from discharge must be for a qualified educational institution as defined in the IRS code which is referenced in the bankruptcy code. The IRS code further defines such institution or school as those that meet the eligibility (whether the school participates or not) to receive federally guaranteed funds. To better illustrate my point... A client of mine initially came to me stating she has a student loan and knows it can not be discharged. It was a loan issued by one of the large student loan lender/servicer and described as a "Tutorial financing loan". The "school: which the client obtained the loan for was a school which offered training for people to learn how to be professional make-up artists. The school does not participate in any federal loan programs and a search on the Department of Education website did not list this school as certified for such eligibility. The lender also confirmed this does appear to be a dischargeable debt.

If a debtor comes to you claiming they have a student loan. I think it is easy enough to make some preliminary inquiries into the type of school the debtor went to. Especially if it is a for profit career or vocational training type program... A little due diligence could save the client from a mistaken or misinformed belief that he or she is still obligated to the loan.

[Joshua Cohen](http://www.linkedin.com/groups?viewMemberFeed=&gid=98511&memberID=68927963) •I'm of the mind, optimistic as it may be, that it is time for Brunner to be reviewed as it applies to private loans. It is time for a new standard. There is a huge distinction between Fed loans and Private loans, that being one is tax money, one is not. Further, Fed loans have a plethora of repayment options by statute. Private loans usually only have two repayment options: pay or don't pay - I don't call that options. Add to that the fact that many private loans are in amounts in excess of what any reasonable lender would have reasonably lent for any other purpose - even for the purchase of tangible property. Another great issue that should be brought out - the acceleration clause. Why should the loan be accelerated and defaulted for filing a bankruptcy, when the bankruptcy does not affect the loan, and, in theory, frees up cashflow which would increase the chances of affording the private loan payments. Lastly, look at the rigidity of private loans - few options for deferments including the lack of an in-school deferment if the borrower chooses to go back to school (hopefully to advance their degree for better job prospects). I'll throw out a test case I am contemplating: Client is about to default on her private student loans becuase she is in graduate school and unable to hold a job with enough income to pay her private student loans. She is pursuing a masters to allow her to teach (our State requires an MA for teachers). No matter what she does, even if she is successful and gets a job in her field making decent money, she will never have a chance to make good on the default private student loan becuase private lenders do not offer the chance to cure. A lawsuit is inevitable, all because she is pursuing a graduate degree to meet State standards. She's barely 28 and staring down a future judgment when she did nothing wrong. I'm not forcing the industry to stop giving loans. Its simply time to show lenders that they caused this - being the more educated about financial risk, and that they can fix it by allowing flexible repayments. If they refuse - face the risk of the bankruptcy court creating a new standard that allows for easier discharge. Am I a dreamer - maybe, and that is exactly why I am THE Student Loan Lawyer.