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Consumer Panel

Student Loan Topics

Sponsored by Bryan Cave Leighton Paisner LLP

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Student Loan Statistics

- About 92% of all outstanding student loans is federal debt.
- The federal student loan portfolio currently totals more than \$1.6 trillion, owed by about 43 million borrowers.
- As of the third quarter of 2022, only 7.22% of the total national student loan debt comes from private student loans.

LOAN TYPE	AMOUNT OWED	NUMBER OF BORROWERS
Direct Subsidized Loans	\$296.2 billion	30.3 million
Direct Unsubsidized Loans	\$584.9 billion	30.7 million
Grad PLUS Loans	\$100.7 billion	1.7 million
Parent PLUS Loans	\$111.7 billion	3.7 million
Perkins Loans	\$3.7 billion	1.2 million
Direct Consolidation Loans	\$547.3 billion	10.7 million

Source: Rebecca Safier & Ashley Harrison, *Student Loan Debt: Averages and Other Statistics in 2023*, USAToday.com, available at <https://www.usatoday.com/money/blueprint/student-loans/average-student-loan-debt-statistics/>.



Student Loan Repayment Statistics

Status	Amount of debt	Number of borrowers
In-school	\$118 billion	6.4 million
Grace period	\$41 billion	1.6 million
Repayment	\$16 billion	0.5 million
Deferment	\$113 billion	3.1 million
Forbearance	\$968 billion	24 million
Default	\$112 billion	5.1 million

Source: Alicia Hahn & Jordan Tarver, *2023 Student Loan Debt Statistics: Average Student Loan Debt*, *Student Loan Debt: Averages and Other Statistics in 2023*, FORBES.com, available at <https://www.forbes.com/advisor/student-loans/average-student-loan-debt-statistics/>.



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§ 523(a)(8) Complaint Filing Poll

- Based on a recent poll conducted by NACBA, it appears that debtor attorneys are finding it easier to discharge student loans post-November 2022 compared to before. Out of the 13 attorneys surveyed, some have filed as many as nine adversary proceedings related to student loan discharge. This indicates that the number of individuals seeking relief is increasing.



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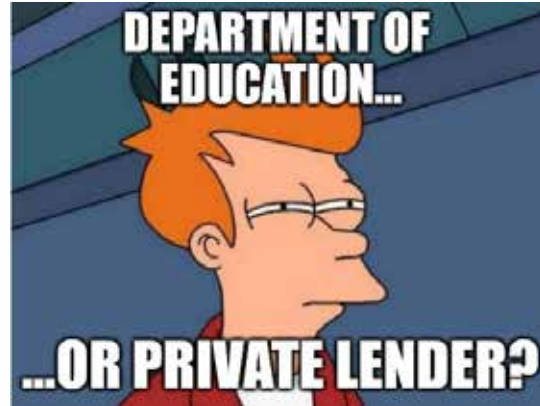
Filing a § 523(a)(8) Complaint

- Jurisdiction/Core Proceeding
- Who may file?
- Timing/Reopening
- General rule is that student loans are not excepted from discharge “unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor’s dependents.” 11 U.S.C. § 523(a)(8).
- Burden is on the debtor to demonstrate an undue hardship



Who Is the Proper Defendant?

- Counsel for the debtor must determine which entity or entities are the current holder(s) of the student loan debt.
- Don't just assume the holder is the Department of Education.



Service of the Complaint (and Summons)

- If the loans are held by the Department of Education, service must be made pursuant to Rule 7004(b)(5) on:
 - ✓ The civil process clerk at the office of the United States attorney for the district in which the action is brought
 - ✓ The Attorney General of the United States at Washington, District of Columbia
 - ✓ The Department of Education



Judicial Tests Under § 523(a)(8)

- Two Primary Judicially Created Test:
 - Totality of the Circumstances Test
 - *Brunner* Test



Totality of the Circumstances Test

- Adopted by Eighth Circuit and First Circuit Bankruptcy Appellate Panel
- The bankruptcy court will review:
 - The debtor’s past, present, and reasonably reliable future financial resources;
 - The debtor and his dependents’ reasonably necessary living expenses; and
 - Other relevant facts or circumstances unique to the case, prevent him from paying the student loans in question while still maintaining a minimal standard of living, even when aided by a discharge of other prepetition debts.



Brunner Test

- Requires three elements:
 - (1) the debtor cannot maintain, based on current income and expenses, a “minimal” standard of living for herself and her dependents if forced to repay the loans;
 - (2) additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period of the student loans; and
 - (3) the debtor has made good faith efforts to repay the loans.



Department Guidance Generally

- On November 17, 2022, the Department of Justice in coordination with the Department of Education issued guidance for DOJ attorneys regarding requests made by debtors to discharge student loan debt under the Bankruptcy Code.



Selecting Which Case to Bring

- Although the DOJ guidelines may be more relaxed than much of the case law, the debtor must still prove undue hardship and not every sympathetic case will be successful.
- How does debtor's counsel know when to file a § 523(a)(8) complaint and when to pursue alternative remedies?



Completing the Attestation Form

- Provides the information necessary for review under the DOJ Guidelines
 - NB: Supplemental information may still be requested
- Not filed with the Court
- Sent to Assistant U.S. Attorney handling the case



Attestation: Personal Information

- Personal Information (name, age, address, household details, employment information, etc.)
- Student Loan Debt Information

NB: Make sure the form contains info on *all* the student loans



Attestation: Current Household Income

- Provides space for the debtor to convey the debtor's household gross income, which includes all income from the debtor's employment, the other household members' employment, unemployment benefits, and Social Security benefits
 - Use of Schedule I
 - Basis of Calculation



Attestation: Current Expenses

- Utilizes Internal Revenue Service Collection Financial Standards:
 - National Standards
 - Local Standards
 - Other Necessary Expenses
- Also provides the debtor an opportunity to account for reasonable expenses not incurred



Attestation: Future Inability to Repay

- Uses presumptions of a future inability to repay (e.g., debtor is 65 or older, debtor has a disability or chronic injury impacting income, debtor has been unemployed for at least five of the last ten years).
- Provides space for other reasons the debtor's financial circumstances of unlikely to improve over a significant portion of the repayment period.



Attestation: Prior Efforts to Repay

- “Whether a debtor has demonstrated good faith with regard to repayment of student loan debt depends upon the debtor’s actions relative to their loan obligation.”
- Evidence of good faith includes, *inter alia*, having made payments, (ii) having applied for a deferment of forbearance, having applied for a federal consolidation loan, and having engaged meaningfully with the DOE or loan servicer.



Attestation: Current Assets

- DOJ attorneys “should not give dispositive weight to the existence of assets that are not easily converted to cash or are otherwise critical to the debtor’s well-being, and should be cautious in concluding that the existence of real property or other financial assets demonstrates a lack of undue hardship.”
- Liquidating a primary residence or a retirement account is an “extreme measure” and should be “exceptionally rare.”



Attestation: Signature

- The debtor must review and sign the attestation under penalty of perjury pursuant to 28 U.S.C. § 1746.
- Use of electronic signatures? Consult your local Assistant U.S. Attorney.



Attorney Compensation

- How does one get paid by a debtor unable to maintain a minimal standard of living?



Other Considerations

- Attorney Compensation
- Time to Draft Complaint
- Time to Prepare Attestation
- Time to Complete the Process



Questions?



Student Loan Topics

*2023 ABI-UMKC Midwest Bankruptcy Conference
Thursday, October 19, 2023*

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Outline:

- I. Basics of Filing a Complaint to Determine Dischargeability of Student Loan Debt**
- II. Tests for Determining Dischargeability of Student Loans**
- III. Guidance for Department of Justice Attorneys**
- IV. Completing the Attestation**

Attachments:

Attachment A: Guidance for Department Attorneys Regarding Student Loan Bankruptcy Litigation (Nov. 17, 2022)

Attachment B: Attestation Form (Updated March 2023)

Attachment C: Debtor Example Scenario

¹ These written materials are not provided or created as part of Mr. Allman's official capacity as part of the Department of Justice. The written materials, the views expressed therein, and the opinions stated during the panel presentation may or may not reflect the position of the Department of Justice.

I. Basics of Filing a Complaint to Determine Dischargeability of Student Loan Debt

- A. *Section 523(a)(8)*. In general, a discharge under the Bankruptcy Code does not discharge an individual from student loan debt “unless excepting such debt from discharge would impose an undue hardship on the debtor.” 11 U.S.C. § 523(a)(8).
- a. While section 523(a)(8) is limited to discharge under section 727, 1141, 1192, 1228(a), 1228(b), and the chapter 13 hardship discharge under section 1328(b), the “super discharge” of section 1328(a) likewise excepts debts “of the kind specified in” 523(a)(8). 11 U.S.C. § 1328(a)(2).
- B. *Jurisdiction*. Bankruptcy courts may hear and determine “core proceedings.” 28 U.S.C. § 157(b)(1). “[D]eterminations as to the dischargeability of particular debts” are core proceedings. *Id.* § 157(b)(2)(I).
- C. *Filing a Complaint*. To seek a determination of dischargeability of student loan debt from the bankruptcy court, a party must file a complaint with the bankruptcy court initiating an adversary proceeding. *See* Fed. R. Bankr. P. 7001(6) (including in the list of adversary proceedings “a proceeding to determine the dischargeability of a debt”); Fed. R. Bankr. P. 4007(e) (“A proceeding commenced by a complaint filed under this rule is governed by Part VII of these rules.”).
- a. In the alternative, if the dischargeability determination has not been made by the bankruptcy court, a party may seek a determination from the state court or other nonbankruptcy court. *See, e.g., In re Crawford*, 183 B.R. 103, 105 (Bankr. W.D. Va. 1995) (“Bankruptcy courts and state courts share concurrent jurisdiction over several of the exceptions to discharge enumerated in 11 U.S.C. § 523(a).”).

- D. *Who May Initiate the Nondischargeability Action?* Both creditors and debtors may file the complaint to determine dischargeability of the student loan debt. *See* Fed. R. Bankr. P. 4007(a) (“A debtor or any creditor may file a complaint to obtain a determination of the dischargeability of any debt.”).
- E. *Timing.* Complaints to determine dischargeability of student loans dischargeability under section 523(a)(8) “may be filed at any time.” *See* Fed. R. Bankr. P. 4007(b).
- a. “A case may be reopened without payment of an additional filing fee for the purpose of filing a complaint to obtain a determination” of whether student loans were discharged. *See id.*
- F. *Service.* If the defendant is the U.S. Department of Education, service will be governed by Federal Rule of Bankruptcy Procedure 7004(b)(5).
- a. By reference to Rule 7004(b)(4), service of the complaint and summons must be mailed to “to the civil process clerk at the office of the United States attorney for the district in which the action is brought,” “to the Attorney General of the United States at Washington, District of Columbia,” and also to the Department of Education.
- G. *Burden.* While the creditor typically must carry the burden to have its debt excepted from discharge, the debtor has the burden under section 523(a)(8) to show that the student loan debt is not excepted from discharge. While the student loan creditor may need to prove that the student loan debt is of the type governed by section 523(a)(8), the ultimate burden is on the debtor to show that “excepting such debt from discharge would impose an undue hardship on the debtor.”

II. Tests for Determining Dischargeability of Student Loans

A. Two primary judicially developed tests have emerged. *Bell v. U.S. Dep't of Educ. (In re Bell)*, 633 B.R. 164, 171 (Bankr. W.D. Va. 2021) (“In attempting to apply the undue hardship language, courts have strayed from a natural reading of the statute to develop judicial tests.”).

- a. While a majority of the circuits which have adopted a test utilize the three-pronged *Brunner* test, a minority of courts employ a totality of the circumstances inquiry.

B. *The Totality of the Circumstances Test*

- a. The United States Court of Appeals for the Eighth Circuit and the Bankruptcy Appellate Panel for the First Circuit have adopted a “totality of the circumstances” test. *See Long v. Educ. Credit Mgmt. Corp. (In re Long)*, 322 F.3d 549, 553 (8th Cir. 2003); *Bronsdon v. Educ. Credit Mgmt. Corp. (In re Bronsdon)*, 435 B.R. 791, 800 (B.A.P. 1st Cir. 2010).
- b. The totality of the circumstances test requires a debtor to prove by a preponderance of evidence that: “(1) his past, present, and reasonably reliable future financial resources; (2) his and his dependents’ reasonably necessary living expenses; and (3) other relevant facts or circumstances unique to the case, prevent him from paying the student loans in question while still maintaining a minimal standard of living, even when aided by a discharge of other prepetition debts.” *Bronsdon*, 435 B.R. at 798; *see also Long*, 322 F.3d at 554.

C. *The Brunner Test*

- a. The issue in *Brunner v. N.Y. State Higher Educ. Servs. Corp.*, 831 F.2d 395 (2d Cir. 1987), was whether a debtor who sought to discharge student loans immediately after obtaining a graduate degree had shown that repayment of those loans was an

undue hardship. The bankruptcy court discharged those loans. The district court reversed crafting a three-part test, which was ultimately adopted by the Second Circuit and others.

- b. The three-prong test, crafted by the district court to prove undue hardship, requires a showing that (1) the debtor cannot maintain, based on current income and expenses, a “minimal” standard of living for herself and her dependents if forced to repay the loans; (2) additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period of the student loans; and (3) the debtor has made good faith efforts to repay the loans. *Brunner*, 831 F.2d at 396.

- i. Of note, *Brunner* was considering the language of section 523(a)(8) as it was enacted in 1978 (and amended in 1979) when student loans were discharged after 5 years unless repayment (before 5 years) was an undue hardship.

III. Guidance for Department of Justice Attorneys

- A. On November 17, 2022, the Department of Justice in coordination with the Department of Education issued guidance for DOJ attorneys regarding requests made by debtors to discharge student loan debt under section 523(a)(8) of the Bankruptcy Code.
- B. The issuance of the Guidance was intended to serve three primary objectives:
 - a. To set clear, transparent, and consistent expectations for discharge that debtors understand regardless of representation;
 - b. To reduce debtors’ burdens in pursuing an adversary proceeding by simplifying the fact-gathering process. This includes use of an Attestation, and where feasible,

information provided through prior submissions to the bankruptcy court and available student loan servicing records; and

- c. Where the facts support it, to increase the number of cases where the government stipulates to the facts demonstrating a debt would impose an undue hardship and recommends to the court that a debtor's student loans be discharged.
- C. The Guidance directs DOJ attorneys to stipulate to facts and recommend that a debtor's student loans should be granted if three conditions (eerily similar to the *Brunner* elements) are satisfied:
- a. The debtor presently lacks an ability to repay the loan.
 - i. With respect to this factor, the Guidance relies upon the Internal Revenue Service Collection Financial Standards (the IRS Standards) to assess whether a debtor can presently maintain a "minimal standard of living" if required to repay student loan debt. DOJ attorneys are directed to compare the debtor's expenses with the debtor's income to determine whether there is a present ability to pay.
 - b. The debtor's inability to pay the loan is likely to persist in the future.
 - i. In analyzing this factor, the Guidance relies primarily on presumptions of a future inability to repay the student loans. However, even if a debtor does not meet one of the explicit presumptions, the debtor may still be able to satisfactorily explain how this factor is established.
 - c. The debtor has acted in good faith in the past in attempting to repay the loan.
 - i. To determine whether the debtor has acted in good faith, the Guidance first lists objective criteria which establishes a debtor's good faith. The

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Guidance then explains how to evaluate the debtor's payment history and decision not to participate in an income-driven repayment plan.

- D. While the debtor and the DOJ attorney may stipulate and recommend to the bankruptcy court that the debtor has satisfied the undue hardship test and the student loan debt should be discharged, such agreement is not binding on the bankruptcy court and the judge will ultimately decide to approve the agreement or not.
- E. The Guidance applies in all jurisdictions, whether that jurisdiction applies the *Brunner* test or a "totality of the circumstances" test.
- F. The primary vehicle for the debtor to provide the information necessary for DOJ attorneys to make a recommendation to the bankruptcy court that a debtor's student loans should be discharged is the Attestation.

IV. Completing the Attestation

- A. **Initial Note:** The debtor (or debtor's counsel) provides the completed Attestation to the Assistant United States Attorney handling the case; the Attestation should not be filed with the bankruptcy court unless directed to do so.
- B. **Personal Information (Questions 1–9)**
 - a. **Questions 1–3** simply provide basic information, including (1) an assertion that that the debtor is competent and over the age of eighteen, (2) the debtor's address, as well as (3) the names, ages, and relationships to the debtor of all members of the debtor's household.
 - b. **Questions 4–8** request information regarding the debtor's student loan debt and the debtor's educational history.

- i. The Department of Education will provide the information required to complete Questions 4–8 to both the debtor and the Assistant United States Attorney that is handling the case.
 1. If the debtor agrees with the information provided by the Department of Education, the debtor may simply skip Questions 4–8.
 2. If the debtor disagrees with the information provided by the Department of Education, or if the debtor has not yet been provided with the information, the debtor should answer Questions 4–8.
- ii. Note: In completing these questions, it is important that debtors who seek to have more than one student loan discharged make sure that the Department of Education has furnished information for all of their loans. If not, debtors should provide that information.
- c. If employed, debtors will provide their current position and the name of their employer in **Question 9**; unemployed debtors check the box that they are unemployed currently.

C. Household Gross Income (Questions 11–13)

- a. **Question 11** provides space for the debtor to convey the debtor’s household gross income, which includes all income from the debtor’s employment, the other household members’ employment, unemployment benefits, and Social Security benefits.

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- i. If the debtor filed Schedule I *less than* 18 months prior to the student loan dischargeability complaint, the debtor may use the information on Schedule I to complete this section.
 - ii. If the debtor filed Schedule I *more than* 18 months prior to the student loan dischargeability complaint, or if the circumstances on Schedule I have changed, the debtor should provide updated income information to complete this section.
- b. **Questions 12 and 13** clarify how the debtor calculated the current monthly household gross income provided in Question 11.
- i. One option is to use the monthly average of the gross income shown on the most recent tax returns filed for the debtor and other members of the debtor's household. If using this option, the debtor should attach copies of the tax returns to the Attestation.
 - ii. A second option is to use the average amount calculated from the most recent two months of gross income stated on four consecutive paystubs from the debtor's current employment. If using this option, the debtor should attach copies of the paystubs.
 - iii. If neither of the above options accurately reflect the debtor's current monthly household gross income, the debtor may provide other documentation to verify the amount listed in Question 11. The additional documentation should be attached to the Attestation.
 - iv. DOJ attorneys may request additional evidence when needed to support the amounts asserted in the Attestation.

D. **Monthly Expenses (Questions 14–17)**

- a. **Questions 14 and 15** utilize certain “National and Local Standards” and “Other Necessary Expenses” as set forth in the Internal Revenue Service Collection Financial Standards.
 - i. The use of the National Standards and Local Standards is intended to ensure a more consistent and equitable review of student loan discharge cases.
 - ii. These standards are used as they reflect “the minimum a taxpayer and family needs to live” and thus help objectively determine whether the debtor can maintain a minimal standard of living while repaying the student loan debt. IRS, *Internal Revenue Manual*: Part 5.15.1.8 (July 24, 2019), https://www.irs.gov/irm/part5/irm_05-015-001#idm139862108264304.
- b. **Question 14(a)** uses IRS National Standards, which include allowance of expenses in categories such as food, housekeeping supplies, apparel and services, personal care products and services, and miscellaneous.
 - i. If the debtor’s expenses are below the amount allowed under the Nation Standards, no further inquiry into the debtor’s actual expense amount is needed and the debtor is allowed the full National Standards amount.
 - ii. If the debtor’s expenses exceed the amount allowed under the Nation Standards, the DOJ attorney will review the debtor’s explanation concerning the actual expense to determine whether the additional expense should be included above the National Standards amount.
- c. **Question 14(b)** asks the debtor about uninsured medical costs incurred monthly.

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- d. **Question 15(a)** covers basic payroll deductions for items like taxes, Medicare, Social Security, and retirement account contributions.
- e. **Question 15(b) and Question 15(c)** use IRS Local Standards, which include allowance of expenses for housing, utilities, and transportation.
 - i. If the debtor's expenses are below the amount listed under the Local Standards, the debtor is allowed the actual amount. The expense listed on the Attestation for Local Standards is limited to the debtor's *actual* expenses; that is, unlike when the National Standard amount is used for the debtor's expenses that fall below the National Standards, the Local Standard amount is not used in this situation.
 - ii. If the debtor's expenses exceed the amount listed under the Local Standards, in general the DOJ attorney will limit the expense to the Local Standards.
 - 1. However, the debtor may still provide an explanation as to why an amount higher than the Local Standards should be allowed. The DOJ attorney will review the debtor's explanation concerning the actual expense to determine whether the additional expense should be included above the Local Standards.
- f. **Question 15(d)** provides for the allowance of "other necessary expenses" in addition to the expenses contemplated by the National and Local Standards. The debtor must explain why such expenses are necessary.
 - i. Explicit examples of "other necessary expenses" include court-ordered alimony and child support payments; babysitting, day care, nurse, and preschool costs; health insurance (if not deducted from pay); life insurance

(if not deducted from pay); and dependent care for elderly or disabled family members.

- g. **Question 16** is a simple calculation to compare the debtor's household gross income with the debtor's expenses to determine how much income, if any, remains after deducting expenses.
- h. **Question 17** recognizes that the debtor currently may not be paying for expenses that the debtor and the debtor's dependents need to expend to maintain a minimal standard of living and to meet basic needs.
 - i. For example, the debtor may be living in substandard living conditions and the debtor's current expenses reflect expense amounts for such substandard living conditions. The debtor may need to incur additional expenses (such as increased rent) in the future to obtain suitable living arrangements more consistent with a minimal standard of living. In addition, a debtor may currently be forgoing other expenses (e.g., costs for childcare or healthcare) which, if paid for in the future, would help the debtor achieve a minimal standard of living.
 - ii. The DOJ attorney will most likely not probe the projected expenses if the expense amount falls below the applicable Local Standards.

E. Future Inability to Pay Student Loans (Questions 18–19)

- a. **Question 18** lists presumptions that the debtor's inability to repay the debt will likely persist over a significant portion of the repayment period.
 - i. The presumptions include:
 - 1. the debtor is age 65 or older;

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2. the debtor has a disability or chronic injury impacting their income potential;
 3. the debtor has been unemployed for at least five of the last ten years;
 4. the debtor has failed to obtain the degree for which the loan was procured; and
 5. the loan has been in payment status other than “in-school” for at least ten years.
- ii. The debtor should select *all* presumptions that apply by checking the appropriate box(es).
 - iii. While these presumptions are rebuttable, the Guidance notes that circumstances supporting rebuttal of a presumption will likely be uncommon and that such a rebuttal must be based on concrete factual circumstances.
- b. **Question 19** provides the debtor an opportunity to show additional circumstances that (although not giving rise to a presumption) indicate that the debtor’s inability to repay the debt will likely persist over a significant portion of the repayment period.
- i. Such circumstances, by way of example, include a significant history of unemployment, details surrounding why the debtor’s income is unlikely to increase, and the fact the debtor’s student loans were obtained in seeking a degree from an institution that has now closed coupled with details how such closure has inhibited the debtor’s future earnings capacity.

F. Prior Efforts to Repay Student Loans (Questions 20–26)

- a. **Questions 20–26** address the debtor’s good faith with regard to the student loan debt.
- i. According to the Guidance, “[w]hether a debtor has demonstrated good faith with regard to repayment of student loan debt depends upon the debtor’s actions relative to their loan obligation.”
 - ii. More specifically, these questions elicit evidence of good faith if the debtor provides information about:
 1. making a payment;
 2. applying for a deferment or forbearance (other than in-school or grace period deferments);
 3. applying for an IDR plan;
 4. applying for a federal consolidation loan;
 5. responding to outreach from a servicer or collector;
 6. engaging meaningfully with Education or their loan servicer, regarding payment options, forbearance and deferment options, or loan consolidation; or
 7. engaging meaningfully with a third party they believed would assist them in managing their student loan debt.
 - iii. In addition, and more generally, a debtor may demonstrate good faith by describing other facts showing, for example, efforts to obtain employment, maximize income, or minimize expenses.
- b. Generally, DOJ attorneys will most likely not question good faith unless there was a willful attempt to avoid repayment.

G. Current Assets (Questions 27–31)

- a. The Guidance directs that DOJ attorneys “should not give dispositive weight to the existence of assets that are not easily converted to cash or are otherwise critical to the debtor’s well-being, and should be cautious in concluding that the existence of real property or other financial assets demonstrates a lack of undue hardship.”
 - i. That said, the Guidance also notes that “it may be appropriate to suggest that a debtor consider liquidating an asset where the asset is unnecessary to the debtor’s and dependents’ support and welfare;” however, the Guidance does note that liquidating a primary residence or a retirement account is an “extreme measure” and should be “exceptionally rare.”
- b. **Question 27** requires the debtor to list the debtor’s interests in real estate, the fair market value of the property, and the total amount of liens against the property.
- c. Similarly, **Question 28** requires the debtor to list the debtor’s interests in motor vehicles, the fair market value of the motor vehicles, and the total amount of liens against the motor vehicles.
- d. **Question 29** elicits the value of the debtor’s retirement assets, while **Question 30** seeks information about the debtor’s interest in business.
- e. Finally, **Question 31** asks debtors how much they anticipate receiving as a tax refund.

H. Additional Circumstances (Question 32)

- a. **Question 32** provides additional space for the debtor to relay additional circumstances in support of a finding of an “undue hardship” to obtain a discharge of student loan debt.

I. **Signature**

- a. The debtor must review and sign the attestation under penalty of perjury pursuant to 28 U.S.C. § 1746.
 - i. Please consult with your local Assistant United States Attorney to find out whether or not electronic signatures are acceptable.

Faculty

Christopher Allman is the Civil Chief Assistant U.S. Attorney with the U.S. Department of Justice in Kansas City, Kan., and oversees a staff of about 30 people. Although the majority of his case work involves defensive cases against the U.S., he represents the U.S. in chapter 7, 11, 12 and 13 cases, including adversary cases seeking discharge of student loan debt. Mr. Allman previously clerked for the Kansas Court of Appeals Central Research Staff for one year before clerking for Federal District Judge Sam Crow for 10 years. He received his J.D. from the University of Kansas School of Law in 1989.

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Stanley Tate is a sole practitioner with Tate Esq. LLC in St. Louis, Mo., and focuses on student loan law. His law firm offers a variety of student loan debt solutions, from eliminating defaults, negotiating settlements, defending lawsuits, lowering monthly payments to pursuing discharges in bankruptcy. Previously, Mr. Tate was a paralegal with the U.S. Army. He received his B.S. in management in 2004 from Southern Illinois University, Carbondale and his J.D. in 2013 from Texas Southern University Thurgood Marshall School of Law.