

# Living With



# Student Loans

The Legal Aid Society of Mid-New York, Inc.  
(Revised August 2018)

This booklet gives you general information about student loans. It does not give advice about your particular situation. If you have a specific legal problem, contact your local legal aid office. If you can't get help from legal aid, you can call the Lawyer Referral Hotline at 1-800-342-3661 for a free or low-cost consultation with a private lawyer.

Some information in this booklet is specific to New York State. If you have student loans through another state's higher education department, you can find information about your state's programs and laws at [www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org).

Student loan law is always changing. Check to make sure you have the most up-to-date edition of this booklet.

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## **BEFORE YOU BORROW...**

Most people can't afford an education without help from student loans. However, student loans are a very serious responsibility. In most cases, they are very hard to get rid of. If you borrow too much, you may be looking at a lifetime of payments.



Before you borrow, talk to a financial aid counselor at your school. Don't borrow more than you can afford to pay back. Try working to pay some of your school expenses.

Keep good records! Schools and lenders will not keep your records forever. Keep copies of all your loan paperwork and school records.

## **YOU CAN RUN, BUT YOU CAN'T HIDE...**

Don't ignore your student loans. They won't go away. In fact, things will only get worse.

In today's computer age, the Department of Education is constantly sharing information with the IRS, Social Security, and credit bureaus. Even if you move, or change jobs, your student loans WILL FIND YOU.



So don't throw those student loan letters in the garbage without reading them! No matter how much you owe, or how low your income is, there are some easy ways to stay out of trouble.

Even if you are already behind on your payments, there may be some simple ways to get back on track.

Depending on your income, you may be able to get payments as low as \$0 per month. Open those student loan letters, and let's get started!

## **BEWARE OF BAD TRADE SCHOOLS!**

“Trade schools” get you ready for a specific career. Some examples are truck driving schools, cosmetology schools and computer schools. Many of these schools are honest, but some are not.

Bad trade schools take your money, but don’t give you a good education. Some even close down before you can finish! You get nothing for your money, except student loans you can’t afford to pay back.

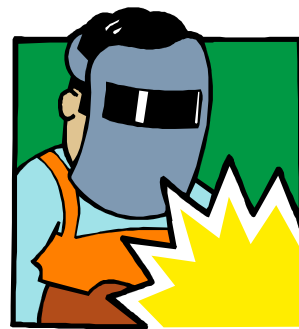
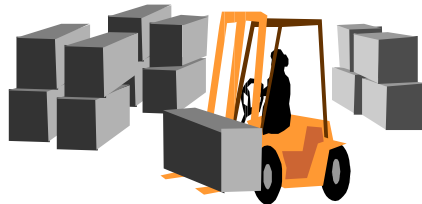
If you decide to go to a trade school, go online and read reviews about the school. If there have been serious complaints about the school, this is a great way to find out.

You should also check the New York State Education Department's website at:

<http://www.acces.nysed.gov/bpss/>

This website has information about trade schools in New York State. Make sure the school is licensed and has a good track record. To get this information by phone, you can call (518) 474-3969.

If you are already a victim of a bad trade school, go to page 19 to learn more about your rights.



## STUDENT LOANS 101



There are 4 different kinds of student loans:

### 1. Direct Loans

Direct Loans come directly from the U.S. Department of Education.

There are 4 kinds of Direct Loans:

- Direct Stafford Loans
- Direct Consolidation Loans
- Direct Grad PLUS Loans (for graduate school students)
- Direct Parent PLUS Loans (for parents of students)

### 2. Federal Family Education (FFEL) Loans

FFEL loans are part of the federal student loan program. However, they were made by private lenders (for example, banks and student loan companies). The FFEL program stopped making any new loans as of 7/1/10.

There are 4 main kinds of FFEL loans:

- FFEL Stafford Loans
- FFEL Consolidation Loans
- FFEL Grad PLUS Loans (for graduate school students)
- FFEL Parent PLUS Loans (for parents of students)

Some older kinds of FFEL loans include Supplemental Loans for Students (SLS), Health Education Assistance Loans (HEAL), and Guaranteed Student Loans (GSL).

### 3. Perkins Loans

Perkins Loans are small, low-interest federal loans made by *your school*.

#### 4. Private Loans

Private loans are made by *private* lenders *outside* of the federal student loan program. Sometimes, it is hard to tell if your loan is FFEL or private. Follow the instructions below to find out.



#### **I DON'T KNOW WHAT KIND OF LOANS I HAVE. HOW CAN I FIND OUT?**

To know your rights, you need to find out what kind of student loans you have.

You can find out information about your student loans online at [www.nslds.ed.gov](http://www.nslds.ed.gov). The site will tell you how to create an account, with a user ID and password. **DO NOT** share your user ID or password with anyone.

After you set up your online account, go back to [www.nslds.ed.gov](http://www.nslds.ed.gov). Log in with your user ID and password. Click on “Financial Aid Review.” You will see information about:

- what type of loans you have
- how much you owe on each loan
- who is handling your loans
- whether your loans are in good standing

To get this information by phone, call: 1-800-4-FED-AID. If you are hearing impaired, the TDD number is 1-800-730-8913.

If your loans don't show up in the system, they are probably private loans. Go to page 42 to learn about your rights as a private loan borrower.

## **I HAVE A PELL GRANT. DO I HAVE TO PAY IT BACK?**

PELL grants are *not* loans. You don't have to pay back a PELL grant unless you drop out of your classes early.

If you drop out of your classes early, you might have to pay back the PELL Grant before you can go back to school. Talk to your school about making a payment plan.

You don't have to pay back a PELL grant if you drop out because:

- you are called to active military duty; OR
- there is a major disaster in your area



## **MY LOANS KEEP CHANGING HANDS. I'M CONFUSED!**

It is important to find out who to contact about your loans. Go to page 7 of this booklet to find out how to get this information by phone or online. Here are some of the “players” you may be dealing with:

**Lender:** The lender makes the original loan to you. The lender can be the U.S. Department of Education, a bank, a student loan company or even your school.

**Holder:** A “holder” is a company that buys your loan from the lender. The holder then becomes the new owner of the loan. If you default on your loan, the U.S. Department of Education may become your holder.

**Servicer:** Most student loans now have a servicer. A “servicer” is the point of contact for your loans. The servicer sends out bills, takes payments, and handles all other issues for your loans.

**Guarantee Agency:** A “guarantee agency” pays off defaulted loans, then takes them over. Sometimes, they are part of the state government. The Higher Education Services Corporation (HESC) is the state guarantee agency for New York.

**Collection Agency:** A “collection agency” is a company that tries to get you to pay a defaulted loan. In some cases, it may be a law office.



## I CAN'T MAKE MY PAYMENTS. WHAT CAN I DO?



If you have a Direct or FFEL loan, your loans are “delinquent” if you miss a payment. However, the loan will only go into *default* if you are behind on your payments for 270 days. You must get notices first, warning you that your loans will go into default if you don’t get up to date on your payments.

For Perkins loans, you are in default as soon as you miss a payment.

If your federal student loans go into default:

- Your tax refund, your paycheck, and some federal benefit checks may be at risk
- You can’t get any new federal student loans
- Collection fees of up to 25% can be added to your loan (up to 30 or 40% for Perkins loans!)
- You can be sued and get a court judgment against you
- Your credit rating will go down

### **A Sad Story....**

John took out \$10,000 in Direct Loans from 2011 to 2012, but dropped out after 2 semesters. He assumed he couldn’t afford to make payments, since he had a minimum wage job. Every time he got a letter about his student loans, he threw it in the garbage without opening it.

In 2016, John got a big surprise when he filed his income tax returns. He expected to get \$2,000 back from his federal tax refund. Instead, the IRS took all of it to repay his student loans. At that time, he found out that his loans had grown to over \$15,000.

Sadly, when John left school, he didn't know he could get a payment plan based on his income, with payments of \$0 per month!

Don’t wait until your student loans are in default. If you can’t make your payments, talk to your loan servicer right away. There are many ways to stay out of default, including:

- Changing your payment plan
- Deferments and forbearance
- Loan discharge and cancellation
- Loan consolidation

If you are already in default, you may still have options to get back on track. Keep reading this booklet to find out how.

## **CAN I CHANGE MY PAYMENT PLAN?**

If you are not in default yet, you have the right to change your payment plan. This is the best way to stay out of default.

If you don't choose a plan, you will get the *Standard Repayment Plan*. Under this plan, you typically pay your loans off in 5-10 years. However, the payments may be higher than you can afford. There are other plans to choose from.

### Direct Loan Choices:

Extended Plan

Graduated Plan

Income Contingent Repayment (ICR)

Income Based Repayment (IBR)

“Pay as You Earn” (PAYE)

“Revised Pay as You Earn” (REPAYE)

### FFEL Loan Choices:

Extended Plan

Graduated Plan

Income Based Repayment (IBR)

With the *Extended Plan*, you get to stretch out your payments over a longer period of time (up to 25 or even 30 years, in some cases). This means lower monthly payments. On the downside, it will take much longer to finish paying your loans. You will also pay more interest in the long run.

With the *Graduated Plan*, payments start out low, and go up over time. This works best for people who expect to move up quickly to a higher paying job. If you don't expect your pay to change much over time, the graduated plan probably isn't for you.

If you can't afford either of these plans, you can choose a plan based on your income. If you are low-income, your payments may even be \$0 per month! The 4 income-based plans are ICR, IBR, PAYE and REPAYE. If you stay on an income-based plan, your loans will be forgiven after 25 years (or 20 years, for some plans).

There is a downside to choosing an income-based plan. If your payments are very low, interest will keep adding to your loan. This will make the amount you owe bigger and bigger. When your loan balance is forgiven, the IRS can count it as income. In most cases, you will not owe any tax, as long as you file the right paperwork with the IRS. However, it is important to talk to a tax adviser when you are close to the end of your payments, just in case.

## **Which Income-Based Plan Should I Choose?**

Choosing an income-based plan can be confusing!

PAYE is usually the best choice. However, if you have older loans, you may not qualify for PAYE.

Here's a chart that can help you decide:

	Monthly Payment	Spouse's Income Counted?	Loan Forgiveness
<b>PAYE</b>	Lowest	No, if you file your tax returns as "married filing separately."	20 years
<b>REPAYE</b>	Lowest  (except for some married borrowers)	Yes, unless you are separated or can't get your spouse's financial information for some reason (domestic violence, for example)	20 years (undergrad loans only)  25 years (grad loans)
<b>New IBR</b> (loans made on or after 7/1/14)	Lowest	No, if you file your tax returns as "married filing separately."	20 years
<b>IBR</b>	Higher	No, if you file your tax returns as "married filing separately."	25 years
<b>ICR</b>	Highest	No, if you file your tax returns as "married filing separately."	25 years

PAYE and REPAYE also put some limits on the amount of interest that can be added back into your loans.

To find out what your payments would look like under the different plans, use the online "repayment estimator" at [www.studentloans.gov](http://www.studentloans.gov).



If you are married, talk to your tax preparer. It is important to find out whether "married filing jointly" or "married filing separately" is best for you. Filing separately might give you a lower student loan payment, but also a lower tax refund! Get all the facts before you decide.

### **Perkins Loan Payment Plans**

If you have a Perkins Loan, you can ask for lower payments if you are low-income, if you lose your job, or if you have health problems. The minimum monthly payment is \$30 or \$40, depending on when you took out your loan.

## HOW DO I CHANGE MY PAYMENT PLAN?

For Direct Loans, you can set up an account at [www.studentloans.gov](http://www.studentloans.gov), and request a payment plan change online. If you don't have online access, call the servicer on your loan statements, and ask for a paper form.

For FFEL and Perkins loans, call your servicer for payment plan information and forms. Most servicers also have a website where you can request a payment plan change online.

For income-based plans (ICR, IBR, PAYE, REPAYE), pay close attention to what documents you need to send in as proof of income. You may need to send a copy of your federal income tax return, paystubs, or benefits award letters. If your income has gone down since you filed your last tax return, send in proof that your current income is lower (for example, paystubs, unemployment benefits letter, etc.)

If you are on ICR, IBR, PAYE or REPAYE, you can get your payments lowered any time your income goes down. You can do this online, or you can call your servicer for a paper form.

If you pay based on your income, you will get paperwork to recertify in the mail every year. If you don't fill out the paperwork and mail it back on time, you may be put back on the standard plan. *This could lead you to default on your loans.*

Never ignore requests for information from your loan servicer. *If you move, make sure to contact your loan servicer with your new address.* If you don't, you are at high risk for losing your ICR, IBR, PAYE or REPAYE plan.

Direct Loan borrowers can switch to a different payment plan at any time. FFEL borrowers have the right to switch payment plans at least once a year.



*CAUTION: In some cases, switching plans can make your loan balance bigger, by adding interest back into the principal. Be sure to talk to your servicer about this before you decide.*

## CAN I GET A DEFERMENT?

If your loan is not in default yet, you may qualify for a *deferment*. During the deferment, you don't have to make payments. You won't pay any interest during the deferment if:

- The loan is a “subsidized” Direct Stafford Loan;
- The loan is a “subsidized” FFEL Stafford Loan; OR
- The loan is a Perkins Loan

There are different kinds of deferments for newer loans and older loans. On the next 2 pages, there are charts showing the deferments you can get.



To ask for a deferment, call your loan servicer (the phone number will be on your statements). Your servicer may also have a website, where you can apply for a deferment online.

DO NOT stop making payments until you get a notice *in writing* that your deferment is approved. Otherwise, your loan could go into default. If you can't make payments while you are waiting, ask your servicer for a *forbearance*. Go to page 16 of this booklet for more information about forbearance.

Most deferments have time limits. Make sure to ask how long yours will last. For some deferments, you must recertify every 6-12 months. *If you get papers in the mail, make sure you respond right away, or you will lose your deferment.*

**DEFERMENTS FOR NEW LOANS (7/1/93 OR LATER)**

**Direct and FFEL Deferments**

Reasons for Deferment	Time Limit	Special Rules
In school at least half-time	None	
Unemployment	Up to 3 years	You must provide proof of unemployment benefits OR proof that you signed up with a public or private employment agency. You must make 6 tries to find a job every 6 months.
Economic Hardship	Up to 3 years	You qualify only if: <ul style="list-style-type: none"> <li>• you get Food Stamps, SSI or welfare; OR</li> <li>• you are in the Peace Corps; OR</li> <li>• you already have a hardship deferment for another loan; OR</li> <li>• you work 30 or more hours a week, but make less than minimum wage OR less than 150% of the poverty line</li> </ul>
You are working with a voc rehab program (such as ACCES-VR)	None	
You are in a graduate school fellowship program	None	
Military Service (including National Guard service)	Ends 180 days after demobilization	Must be on active duty during a war, other military operation, or national emergency.
Post-Active Duty (National Guard or Reserves service)	Up to 13 months after active duty ends	Must be called to active duty while attending school, or within 6 months of attending school.

**Perkins Loan Deferments**

For Perkins loans, you can apply for deferments based on:

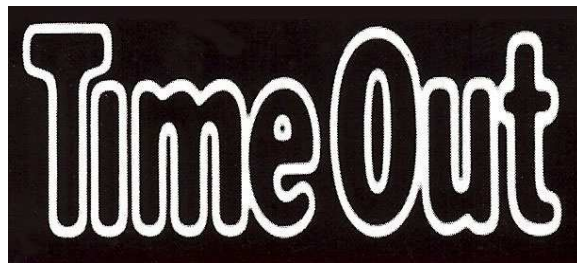
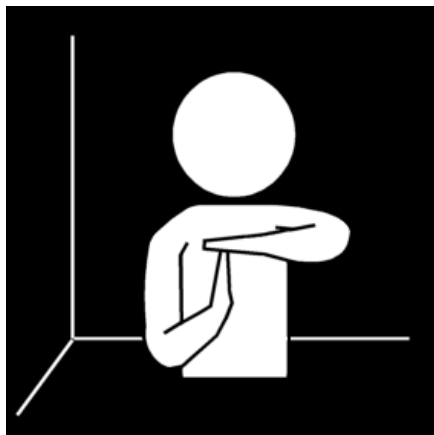
- In-school status
- Full-time teaching in certain schools, including Head Start
- Full-time service as a police officer or corrections officer
- Certain volunteer service, such as the Peace Corps
- Unemployment or economic hardship (for up to 3 years)
- Active military service and post-active duty military service

## **DEFERMENTS FOR OLD LOANS (BEFORE 7/1/93)**

If you still have old FFEL loans (taken out before 7/1/93), the rules for deferments are different. Here are the types of deferments you can apply for:

- Full-time student
- Unemployment (up to 2 years)
- Participation in a voc rehab program (such as ACCES-VR)
- Active military duty
- Temporary total disability (up to 3 years)
- Caretaker for disabled spouse (up to 3 years)
- Parental leave
- Mother of pre-school child earning \$1 above minimum wage or less

If you took out a Perkins loan before 7/1/93, you can get a deferment for temporary total disability, among other reasons.

A black rectangular sign with the words "Time Out" written in a large, white, rounded, bubbly font.

## CAN I GET A FORBEARANCE?

You can get a *forbearance* even if you are in default. A forbearance will stop collection of the debt. However, it will not get you out of default, and interest will keep adding to your loan. You can ask for:

- A temporary stop in payments; OR
- More time to make payments; OR
- Smaller payments

Use the charts on the next page to find out if you can get a forbearance.



To ask for a forbearance, call your loan servicer (the phone number will be on your statements). Your servicer may also have a website, where you can apply for a forbearance online.

DO NOT stop making payments until you get a notice *in writing* that your forbearance is approved. Otherwise, your loan could go into default. If you can't make payments while you are waiting, ask the servicer to make your forbearance start back on the date you applied for it.

Most forbearances have time limits. Make sure to ask how long yours will last. For some forbearances, you must recertify every 6-12 months. *If you get papers in the mail, make sure you respond right away, or you will lose your forbearance.*



### **Direct Loan Forbearance Chart**

Reasons for Forbearance	Time Limit
Poor health or personal problems	None
Total monthly loan payments are 20% or more of gross monthly income	Up to 3 years
Waiting on a request for deferment, forbearance, change of payment plan, or consolidation	60 days
Certain teacher service	Varies
Waiting on a request for discharge or cancellation	120 days for disability and identity theft discharge applications
Active military service	3 months (you can get an extension if you send in proof)
Natural disasters	Varies

### **FFEL Forbearance Chart**

Reasons for Forbearance	Time Limit
Poor health or personal problems	None
Total monthly loan payments are 20% or more of gross monthly income	Up to 3 years
Waiting on a request for deferment, forbearance, change of payment plan, or consolidation	60 days
Certain teacher service	Varies
Waiting on a request for discharge or cancellation	120 days for disability and identity theft discharge applications
Active military service	3 months (you can get an extension if you send in proof)
Financially unable to repay loan within 10 years	Up to 5 years
Natural disasters	Varies

### **Perkins Forbearance Chart**

Reasons for Forbearance	Time Limit
Poor health or personal problems	3 years
Total monthly loan payments are 20% or more of gross monthly income	3 years
Military Service	1 year at a time + 90-day transition period. Can be extended with proof of continued service.
Natural disasters	Varies

## CAN'T I JUST FILE FOR BANKRUPTCY?

It is very hard to get rid of federal or private student loans in bankruptcy. You must prove that repaying the loans would be an “undue hardship.” In most cases, this is a very hard standard to meet. However, it is not impossible. If you are filing for bankruptcy, check with your lawyer for more advice about discharging your student loans.



If you believe you have an undue hardship, look for a bankruptcy attorney who has experience with student loan issues. At the very least, the bankruptcy attorney should look at your student loan history carefully, to see if you might qualify for a bankruptcy discharge.

If you have private loans, you might be able to get a bankruptcy discharge for any amounts you did not use for “educational expenses.” The rules are very complicated, so talk to an experienced bankruptcy attorney.

## **I WENT TO A BAD TRADE SCHOOL. CAN I GET RID OF MY LOANS?**

If you went to a bad trade school, you may qualify for a *discharge* of your federal student loans. In most cases, the loans must be from *1/1/86 or later*. If your discharge is approved:

- you will get rid of all (or at least part) of your loans
- you may get back some or all of the payments you made in the past
- you can get new student loans again
- bad information about the loans must come off your credit report

There are 3 types of “school-based” discharges:

### **Closed School Discharge (Direct, FFEL, Perkins)**

You can apply if the school closed before you could finish. You can also apply if you dropped out within 120 days before it closed (or longer, in some cases).

### **False Certification Discharge (Direct, FFEL)**

You can apply if:

- you did not have a high school diploma or GED, and the school did not properly test you before you enrolled; OR
- you could not meet the requirements for the job you were being trained for; OR
- the school forged your loan agreement or loan checks

### **Unpaid Refund Discharge (Direct, FFEL, Perkins)**

You can apply if you dropped out of the school, but never got a refund. You can't apply if you completed 60% or more of the semester.



## **How Do I Apply?**

If you aren't in default yet, call your loan servicer for an application form. For Direct Loans, you can also get discharge forms online at [www.studentloans.gov](http://www.studentloans.gov).

If you are already in default, contact your loan holder. This is usually the Department of Education. However, it might also be a guarantee agency, like HESC. It could even still be the original lender. If you are confused about who your loan holder is, call 1-800-4-FED-AID to find out. Ask for the holder's contact information.

*You should apply for a forbearance while you wait for a decision.* In the meantime, keep making your payments if you can, or your loan may go into default.

When you apply, send as much information as you can to support your case. Examples include your school records, newspaper articles about the school, and written statements from other students.

If your school closed down, the NYS Bureau of Proprietary School Supervision (BPSS) may have your school records. You can also ask for records of other complaints against the school. Call BPSS at (518) 474-3969 to find out how to request this information.

BPSS also has a fund to help victims of bad trade schools. Here is the contact information:

New York State Education Department  
Bureau of Proprietary School Supervision  
Tuition Reimbursement Account  
116 W. 32d St., 5th Floor  
New York, NY 10001  
(212) 643-4760

If the school was in another state, go to [www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org) to get information for that state.

The U.S. Department of Education won't have your school records, but they may have records of other complaints against the school. You can call (202) 401-8365 to ask for a Freedom of Information Act (FOIA) request form.



*School-based discharges are probably NOT taxable. However, you might still get a 1099-C tax form in the mail. Talk to an experienced tax preparer if this happens. If you file the right paperwork with the IRS, you should not owe any tax.*

## CAN I DISCHARGE MY LOANS FOR ANY OTHER REASONS?



Even if you didn't go to a bad trade school, you may still qualify for a discharge of your federal loans.

### Disability Discharge

You can apply if you have a total and permanent disability. Your disability is "permanent" if you expect it to last at least 5 years.

Nelnet handles disability discharge applications for federal student loans. To get an application form, go to [www.disabilitydischarge.com](http://www.disabilitydischarge.com). You can also call Nelnet at 1-888-303-7818. You should get a 120-day forbearance while Nelnet reviews your application.

In the past, you could not apply if you were working. Now, even if you work, you might still qualify. It depends on how much you earn. Contact Nelnet for more information.

You must provide proof of disability. There are 3 ways to do this:

- Ask your doctor to fill out and sign page 2 of your application; OR
- If you get SSD or SSI, ask Social Security for a "BPQY" letter, stating that your disability will not be reviewed for 5 years or more; OR
- If you are a veteran, get a letter from the VA stating that you are not employable because of a service-connected disability

If your disability discharge is approved, you will be monitored for 3 years. During the 3 years, you will lose your discharge if:

- You take out new federal student loans; OR
- You go back to work, and your gross pay is over the poverty line for a family of 2

If you lose your disability discharge, you can apply again later if your disability gets worse.

*NOTE: if you get a discharge based on VA service-connected disability, the monitoring period does not apply to you.*



### **Identity Theft Discharge**

If someone used your identity to take out federal student loans, you can apply for an identity theft discharge. You will need proof from a court that a crime was committed (for example, a judgment or conviction).

### **Death Discharge**

If the borrower dies, their federal student loans will be discharged. For Parent PLUS loans, the parents can get a death discharge if the student dies, or if both parents who signed the loan die.

You must send a certified copy of the death certificate(s).



*The amount of discharged debt gets reported to the IRS. In most cases, you will not owe any tax, as long as you file the right paperwork with the IRS. However, it is important to file your income tax returns for that year, with the help of an experienced tax preparer.*

*Disability and death discharges that become final in 2018 or later are not taxable.*

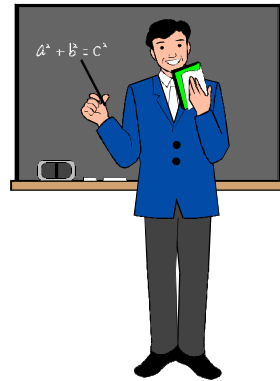
## CAN I CANCEL MY LOANS?

If you serve for a certain time period in some types of jobs, you can apply to cancel all or part of your federal loans.

For Direct and FFEL Stafford loans (and some consolidation loans), you can cancel up to \$5,000 (or even up to \$17,500 in some cases) if you teach for 5 years in a row in certain low-income school districts. Certain child care providers, as well as some teachers in non-profit schools, may also qualify for cancellation. If you are in default, you must get out of default before you can apply.

For Perkins loans, there are many types of job-based cancellations. You might qualify if you have served in the military, or if you have served as a teacher, nurse, medical technician, child care or Head Start worker, law enforcement officer, corrections officer, AmeriCorps or Peace Corps volunteer, school librarian, speech pathologist, or employee of a family services agency. Check with your lender for a full list of jobs and requirements. You can apply for Perkins cancellation even if you are in default.

If you are a victim of 9/11 (or the victim's spouse) you can apply to cancel any Direct, FFEL or Perkins loans you had on the date of the attacks.



To get an application form, contact your loan servicer. For Direct Loans, you can get forms online at [www.studentloans.gov](http://www.studentloans.gov). For Perkins loans, you can contact your school.

You should also apply for a forbearance, so no action will be taken against you while you wait for a decision. In the meantime, keep making your payments, or your loan may go into default.

*If you qualify for Perkins cancellation, DO NOT consolidate your Perkins loans – you will lose your cancellation rights.*

If a loan is cancelled for any of the reasons on this page, it is NOT taxable income.

## **PUBLIC SERVICE LOAN FORGIVENESS**

If you work full-time in a “public service” job, you may qualify for Public Service Loan Forgiveness (PSLF). You are in a “public service” job if you work for the government, the military, law enforcement, a public health or safety agency, a public school or library, a non-profit organization (including many hospitals, nursing homes and clinics), and many other types of public service jobs.

If you work at one job, “full time” is the number of hours your employer considers “full time” (but not less than 30 hours per week). If you work 2 or more jobs, you must work in public service for at least 30 hours per week on average.

With PSLF, your loans will cancel after 120 on-time payments. Only Direct Loans qualify for the program. If you don’t have Direct Loans, you must consolidate your loans with the Direct Loan program to qualify (go to page 28 of this booklet for help with consolidation). You may be able to consolidate even if you only have one loan, or if you consolidated before.

If you are in default, you must get back into good standing to qualify. Go to pages 25 and 28 of this booklet to learn how. Consolidating with Direct Loans is the quickest way.

A payment only counts towards the 120 payments if:

- You are working full-time in a public service job;
- You are on ICR, IBR, PAYE or REPAYE (some other plans may also qualify);
- The payment is on time (if your payment plan amount is \$0, it still counts); AND
- You are not in default.

Your 120 payments don’t have to be in a row. You keep credit for any PSLF payments you make, even if you change jobs. Even if you leave public service for awhile, then come back, you can pick up your PSLF payments right where you left off.

FedLoan Servicing handles the PSLF program. To get started, call 1-800-699-2908 or go online at [www.myfedloan.org](http://www.myfedloan.org). There is a form for your employer to fill out, confirming your dates of employment and hours worked. To get credit for payments you made during any certain time period, you must send in an employer form covering those dates. *Any payments you made after 10/1/07 can count*, so ask any past employers to fill out a form too. If the employer closed down, you can send in other proof, such as your tax returns, pay stubs and W-2s.

Once you send in your employer form(s), FedLoan Servicing will keep track of your PSLF payments. They will send you statements in the mail, to let you know how many payments you have left to go. At the end of each year, ask your employer to fill out a new form. Send it in to get credit for that year.

The amount cancelled from public service forgiveness does NOT count as taxable income.



## CAN I “REHABILITATE” MY LOANS?

There are 2 ways to get out of default: loan rehabilitation and loan consolidation. Some servicers and collection agencies may pressure you into one or the other. However, it is YOUR choice. Read up on both options and decide what is best for you.

In most cases, you can “rehabilitate” your federal loans so you can:

- go back to school; and
- get your loan out of default



The first step is to contact your loan servicer. Ask for:

*“a reasonable and affordable payment plan to renew my eligibility for federal student aid AND get my loan out of default.”*

These are the “magic words” to use. Read them out loud from this booklet if you have to. For example, if you only ask about getting back to school, you may not get your loan out of default too, even if you make all the required payments.

The servicer will give you a payment plan to rehabilitate your loans. Make sure the plan is *in writing*. Also, make sure it says you are making the payments to: 1) renew eligibility for federal student aid; AND 2) get out of default.

### **How much will my payments be?**

For Direct and FFEL loans, payments can’t be higher than the IBR amount. The minimum payment is \$5 per month.

For Perkins loans, the school decides what amount you should pay.

Remember: don't agree to payments you can't afford. For all types of federal loans, you can ask for a hardship form if you still think the payments will be too high. Do this *before* you agree to anything.

If the servicer gives you a hard time about rehabilitating your loans, try contacting your local legal aid office. At the end of this booklet, there is also a list of agencies you can complain to.

### **Getting back to school**

After you make 6 on-time payments in a row, you can get new federal student loans to go back to school.

### **Getting out of default**

If you have a Direct or FFEL loan, your loan will be "rehabilitated" after you make 9 on-time payments in a 10-month period. For Perkins loans, you must make 9 on-time payments in 9 months.

Partial payments do not count. Make sure to pay the whole payment you agreed to.

If you have an FFEL loan, a new lender must also buy your loan. While you are waiting for this, keep making the monthly payments, even after you are done making your 9 on-time payments. When your loan has been sold, the new servicer will contact you to set up a new payment amount.

If you "rehabilitate" your loans, they will be out of default. You won't have to worry about losing part of your paycheck or your tax refund anymore. You can get deferments again. Your credit report can't say that you were in default. For Direct and FFEL loans, you will have the right to a payment plan based on your income. Collection fees (up to 16%) can be added to your loan, but lately, these fees are not actually being charged.

### **I have a court judgment or wage garnishment. Can I still rehabilitate?**

If you have a court judgment against you for your loans, you can't rehabilitate them unless the judgment gets lifted. Talk to your servicer about this.

If your wages are being garnished, you can still rehabilitate. However, the amount coming out of your paycheck does not count toward your monthly plan payment. After 5 on-time plan payments, the garnishment must stop.

### **I missed some of my rehabilitation payments because of military service or a disaster. What can I do?**

Contact your servicer as soon as possible. You have the right to suspend payments in some cases, for active military service or a major disaster in your area.



### Only one bite of the apple...

After you rehabilitate your loans, *be careful*. If you default again, you will not get another chance to rehabilitate. Go to page 28 if you are already in this situation. You may still be able to consolidate, in some cases, to get out of default again. NOTE: if you rehabilitated your loans before 8/14/08, you may be able to rehabilitate again at this time.



*Once your loan is out of default, you will get a new payment notice. The servicer may automatically put you back on the standard plan. If you can't afford these payments, contact your servicer right away to choose a different payment plan. Ask for a forbearance while your payment plan choice is being processed. Otherwise, you will get behind again right from the start.*

Don't blow it! If you have trouble making payments again, call your servicer. Follow these simple rules:

- apply for a deferment or forbearance
- switch to the cheapest income-based plan
- if you are on ICR, IBR, PAYE or REPAYE already, ask for lower payments if your income goes down. If your household size goes up, you can also report this to get lower payments. The servicer must give you a form to report your new income and household size. Make sure to submit all the documents they ask for, such as tax returns, pay stubs, benefit letters, etc.

NO ONE SHOULD EVER HAVE TO DEFAULT ON A FEDERAL STUDENT LOAN. During a severe hardship, income-based payments may be as low as \$0 per month. However, you can only get this type of payment if you ask for it!

## SHOULD I CONSOLIDATE MY LOANS?

**Limited time offer!  
Cut your payments  
in half!**

**Lowest interest  
rates ever!**

**FINAL NOTICE...  
CONSOLIDATE  
NOW!**

Some private lenders may pressure you to consolidate your federal student loans with them. They often do this by giving you false information. For example, they may tell you that consolidation is a “limited time offer,” to force you into a quick decision. They may offer to cut your interest rate and lower your payments.



*WARNING: As of 7/1/10, Direct Loans is the only federal consolidation program. DO NOT consolidate your federal loans with a private lender, or you will lose important rights. No matter what deal they offer you, it's not worth it!*

Even before you consolidate with Direct Loans, check out all your options. You may be able to discharge your loans if you are disabled, or if you went to a bad trade school. Special programs for military service, teaching and other jobs may help you cancel all or part of your loans. Getting rid of your loans is better than taking on more debt!

### What's good about consolidating my loans?

By consolidating with Direct loans:

- you have only one payment to worry about
- you can lock in a lower interest rate (in some cases)
- you have more payment plan choices
- you may qualify for Public Service Loan Forgiveness
- you get out of default quickly and easily
- Collection fees for consolidating a defaulted loan (up to 18.5%) may be better than if you don't consolidate (up to 25%, or even 30-40% for Perkins loans).

### What's bad about consolidating my loans?

Consolidation may make the total amount of your loans bigger, by rolling interest into the amount you borrowed. If you are in default, consolidation may also add a large collection fee (up to 18.5%) to your loans. *In some cases, you may also lose your right to get certain discharges or cancellations.* Check into discharge and cancellation first.

### What kinds of loans can I consolidate?

You can consolidate Direct Loans and FFEL loans into the Direct Loan program. You may want to leave out any Perkins loans, since they usually have lower interest rates and extra rights for borrowers.

If you have been making payments under the Public Service Loan Forgiveness program, DO NOT consolidate these loans. You will lose credit for all the payments you made toward your 120-month goal!

If you have Parent PLUS loans, DO NOT consolidate them with your other federal loans. Otherwise, you will lose your right to get the IBR, PAYE or REPAYE payment plans for the whole consolidation loan! Always consolidate Parent PLUS loans separately. By consolidating your FFEL Parent PLUS loans into the Direct Loan program, you can get the ICR plan, which can lower your monthly payments.

Unfortunately, you can't consolidate private loans with the Direct Loan program.

### **Can I consolidate if I am in default?**

In most cases, you can get a Direct Consolidation Loan even if you are in default. In fact, consolidation is a great way to get out of default.

If you have a court judgment against you for your loans, it must be lifted before you can consolidate. Contact your servicer, to see if they will do this for you. They often agree, just to get the loan off their books.

If you have a student loan wage garnishment, you can't consolidate right away. Contact your loan servicer. You have the right to ask for a payment plan to stop the garnishment. The payments must be at the IBR amount (you can ask for a hardship form if this is still too high for you). You must make these payments *on top of* the amount coming out of your paycheck. If you make the payments on time for 5 months in a row, however, the garnishment will stop. Then, you can consolidate.

### **Do I have to make a downpayment to consolidate?**

No!!! As long as you ask for an income-based plan when you consolidate, it is free.

Unfortunately, some collection agencies and servicers try to force you to make payments before they let you consolidate. However, you have the right to apply for consolidation on your own, without their “help!”

### **How do I apply for Direct Loan consolidation?**

To apply for a Direct Consolidation Loan, you can contact your servicer for the forms. However, you can also do it on your own.

Call the Direct Loan Consolidation Information hotline at 1-800-557-7392. You can also apply online at [www.studentloans.gov](http://www.studentloans.gov). The website has a calculator to help you figure out your monthly payments. You must choose a loan servicer as part of your application. If you plan to apply for public service forgiveness, you must choose FedLoan Servicing.



### **Only one bite of the apple...**

After you consolidate your loans, *be careful*. If you default again, you will not get another chance to consolidate, unless:

- You have other Direct or FFEL loans to add; OR
- You are consolidating to get into the Public Service Loan Forgiveness program.

Go to page 25 if you are already in default on your Direct Consolidation loan. You may be able to rehabilitate the loan, in some cases, to get out of default again.



*Once consolidation goes through, you will get a new payment notice. The servicer may automatically put you on the standard plan. If you can't afford these payments, contact your servicer right away to choose a different payment plan. Ask for a forbearance while your payment plan choice is being processed. Otherwise, you will get behind right from the start.*

Don't blow it! If you have trouble making payments again, call your servicer. Follow these simple rules:

- apply for a deferment or forbearance
- switch to the cheapest income-based plan
- if you are on ICR, IBR, PAYE or REPAYE already, ask for lower payments if your income goes down. If your household size goes up, you can also report this to get lower payments. The servicer must give you a form to report your new income and household size. Make sure to submit all the documents they ask for, such as tax returns, pay stubs, benefit letters, etc.

NO ONE SHOULD EVER HAVE TO DEFAULT ON A FEDERAL STUDENT LOAN. During a severe hardship, income-based payments may be as low as \$0 per month. However, you can only get this type of payment if you ask for it!

## CAN I SETTLE MY LOANS FOR LESS THAN I OWE?

The U.S. Department of Education and HESC can accept lump sum settlement offers for student loans. They can agree to:

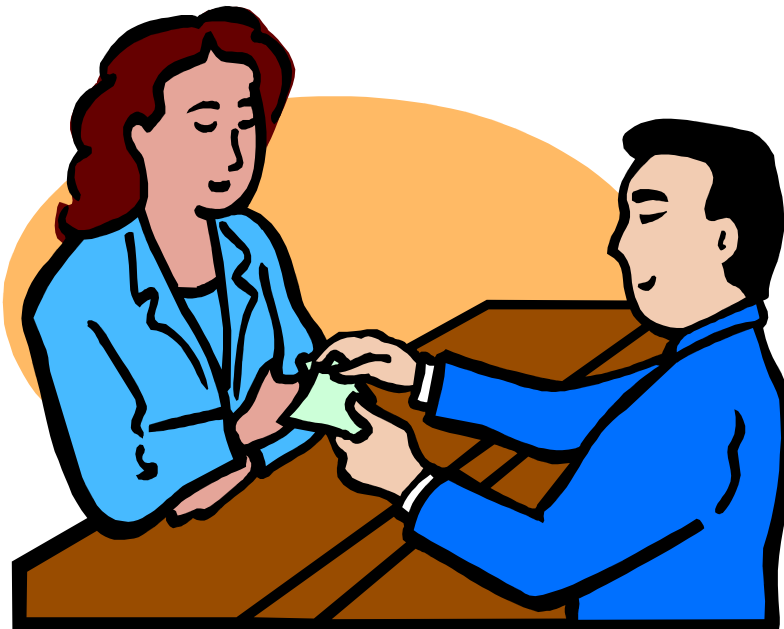
- Waive collection fees AND
- Settle your account for less than you owe

Get the agreement *in writing*, signed by you and the agency, before you pay. Make sure the U.S. Department of Education also agrees *in writing* not to come after you for the rest of what you owed.

It is best to have a lawyer help you with this, if you can. If legal aid can't help, you can get a free or very low-cost consultation with a private lawyer by calling 1-800-342-3661.



*When you settle a debt for less than you owe, the IRS can count the amount that was written off as income to you. In most cases, you will not owe any tax, as long as you file the right paperwork with the IRS. However, it is important to file your income tax returns for that year, with the help of an experienced tax preparer.*



## **BILL COLLECTORS WON'T LEAVE ME ALONE. WHAT CAN I DO?**

If your loan is in default, you may already be dealing with a bill collector, such as a collection agency or a law firm. Even if they work for the government, bill collectors often lie about your rights. For example, they may not tell you about all your payment plan choices. They may claim that you must make a downpayment to rehabilitate or consolidate your loans. Their goal is to pressure you into making payments, even though there are other options open to you.

Under the federal Fair Debt Collection law, you have important rights. Private collection agencies and collection lawyers who get your loans *after* default CAN'T:

- lie about your rights and options as a borrower
- contact you at inconvenient times and places (for example, before 8:00 a.m. or after 9:00 p.m.)
- call you at work if your boss does not allow personal calls
- make repeated calls to harass and annoy you
- use bad or abusive language
- contact you if you have a lawyer
- trick you into thinking they are a government agency or a lawyer
- threaten to have you arrested
- threaten to take legal action if they don't mean to do so
- continue collecting after a debt is paid off, discharged or cancelled
- threaten to do something they can't actually do (such as taking your SSI)
- lie about the amount or status of your loans, or charge illegal fees
- contact other people about your loans, except to ask about where to find you. It is OK for the bill collector to talk to your spouse or co-signer about your loans (or your parents, if you are under 18)

Within 5 days of the first call or letter to you, the bill collector must send you a written notice telling you:

- what you owe and who owns the loan;
- that you can dispute the debt;
- that you can ask for the name and address of the original lender;
- that they are attempting to collect a debt.

If you want to dispute the debt, send a letter within 30 days, explaining why you think the debt is wrong. Certified mail, return receipt requested is best. Keep a copy. Include copies of any documents that support your case. While you are waiting for a decision, the bill collector can't take any further action against you.

You should also call 1-800-4-FED-AID to find out what's going on with your loans. Ask questions to find out more about the agency that has been contacting you. On page 45 of this booklet, there is a list of collection agencies that handle federal student loans.



You also have the right to make the bill collector stop contacting you. You must do this *in writing*. Sign and date your letter. Certified mail, return receipt requested, is best. Keep a copy. Here is a sample letter:

*March 15, 2015*

*Mary Smith  
12 South St.  
Utica, NY 13501*

*ABC Collection Agency  
1325 Broadway  
New York, NY 10001*

*Student loan account# 111-11-1111*

*To Whom It May Concern:*

*I am writing to ask that you stop contacting me about my student loans, as required by the federal Fair Debt Collection Practices Act. I am unable to make payments at this time.*

*By writing this letter, I am in no way admitting that I owe this debt.*

*Sincerely,*

*Mary Smith*

If a bill collector violates your federal Fair Debt Collection rights, you can sue them. The time limit for filing a lawsuit is 1 year. Build your case by saving all letters and phone messages. Write down the date and time of each call, and what the caller said.

The federal Fair Debt Collection law does not apply to bill collectors who got your loans *before* default. It also does not apply to your original lender, government agencies, and some guaranty agencies (such as HESC). However, they may be violating other federal or state laws. Therefore, you should still talk to a lawyer for more advice.

If you think a bill collector has violated your rights, contact your local legal aid office for more information, or call the Lawyer Referral Service at 1-800-342-3661. The bill collector may have a complaint form on their website, but you should also call the Department of Education at 1-800-621-3115 to complain. If this doesn't work, try calling the federal student loan ombudsman at 1-877-557-2575.

## **CAN THEY TAKE MY TAX REFUND?**



If you are in default on a federal student loan, the U.S. Department of Education can take your federal tax refund. This can happen every year, until you get out of default or pay off your loan in full.

You have the right to notice and a hearing before you lose your tax refund for the first time. The notice must explain your right to:

- Make a repayment plan
- Ask for a copy of your loan file
- Ask for a hearing

The notice will give you an address to send your response. Make sure to use this address. Send everything by certified mail, return receipt requested. Keep copies for your records. Follow up with phone calls to the number on your notice.

### **How do I make a repayment plan to keep my tax refund?**

Ask for a repayment plan *in writing*. Send it to the address on the notice. Mail your letter right away, so it is received within 20 days of the date on the notice. If you make a repayment plan, your tax refund can't be taken, as long as you make your payments.

### **How do I get a copy of my loan file?**

Ask for your loan file *in writing*. Send it to the address on the notice. Mail it right away, so it is received within 20 days of the date on your notice. This will stop your tax refund from being taken, at least temporarily.

### **How do I ask for a hearing?**

Here are some reasons to ask for a hearing:

- The loan was paid off, discharged or canceled
- You don't owe the loan (for example, you are a victim of identity theft)
- The amount you owe is wrong
- You made a repayment agreement and you are making your payments

- You have a total and permanent disability
- You filed for bankruptcy, and your bankruptcy case is still open
- You qualify for a loan discharge or cancellation
- Active military service
- Forgery or fraud
- Extreme hardship

Ask for a phone hearing *in writing*. Send it to the address on the notice. Mail it right away, so it is received within 65 days of the date on the notice. *NOTE: if you ask for your loan file, you get an extra 15 days after you get the file to ask for your hearing.* Your tax refund *can't* be taken until you get a decision on your case.

Make sure your letter explains that you want a phone hearing because you need to present witnesses. Include a list of witnesses and what they will say. Enclose witness statements and copies of any important documents.

### **What if they are already taking my tax refund?**

You may still have the right to a copy of your loan file and a hearing, but it can be harder to get a response. Make your request *in writing*. Send the letter by certified mail, return receipt requested. Keep copies for your records.

### **Can they take my state tax refund?**

Yes, if you are in default with HESC.

### **Other ways to keep your refund**

Here are some other ways to save your federal and state tax refunds:

- Get out of default – rehabilitate or consolidate!
- Change your tax withholding at work, so less money is taken out of your paycheck. Fill out form W-5 to get your Earned Income Tax Credit paid to you during the year. Be careful to have enough taxes withheld, however, or you will owe the IRS money. Talk to a tax professional if at all possible.
- If your spouse is the one with the defaulted loan, file an “injured spouse” claim at your local IRS office. You can get *your* part of the refund back.

If you want to pay off your loan, you may want to let your tax refund be taken. If you get a big refund, you can pay off your loan very quickly this way.

## CAN THEY TAKE PART OF MY PAYCHECK?

If you are in default on a federal student loan, your paycheck is at risk. The U.S. Department of Education, or guarantee agencies such as HESC, can take part of your paycheck until your loans are paid off. This is called “garnishment.”

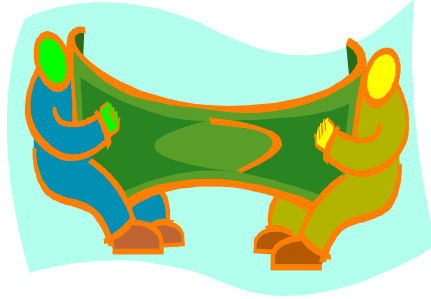
IMPORTANT: There are limits on how much they can take out of your paycheck. They can only take the *smaller* of:

- 15% of your net pay; OR
- The amount of net pay you earn per week above \$217.50

*If you earn \$217.50 per week or less, they can't take your paycheck at all.*

If you have more than one garnishment on your pay, the total can't be more than 25% of your net income. So, for example, if child support collection is already taking 25% of your net pay, you can't be garnished for your student loans. Also, under New York law, total garnishments can't be more than 10% of your gross pay.

NOTE: these limits do not apply to spousal support or child support debts.



You have the right to a 30-day notice before your wages are garnished. The notice must explain your right to:

- Make a repayment plan
- Ask for a copy of your loan file
- Ask for a hearing

The notice will give you an address to send your response. Make sure to use this address. Send everything by certified mail, return receipt requested. Keep copies for your records. Follow up with phone calls to the number on your notice.

Pay careful attention to the deadline on your notice. Garnishment can't start if your request is *postmarked* on or before the deadline (usually 15 or 30 days after the date on your notice).

If you are dealing with a guarantee agency such as HESC, your request must be *received* within 30 days after you *received* the notice. If you are late, garnishment can start. However, if you asked for a hearing, you must get a hearing and decision within 60 days.

### **How do I make a repayment plan?**

Follow the instructions on the notice to mail in your request for a repayment plan. Follow up with a phone call to the number on your notice. If you make a repayment plan, garnishment won't start, as long as you make your payments.

When you make your request, ask about getting loan rehabilitation as your payment plan. To learn more, go to page 25 of this booklet. Loan consolidation can also get you out of default quickly, stopping wage garnishment – to learn more, go to page 28 of this booklet.

### **When should I ask for a hearing?**

Here are some reasons to ask for a hearing:

- The loan was paid off, discharged or canceled
- You don't owe the loan (for example, you are a victim of identity theft)
- The amount you owe is wrong
- You made a repayment agreement and you are making your payments
- You have a total, permanent disability
- You filed for bankruptcy, and your bankruptcy case is still open
- You qualify for a loan discharge or cancellation
- Active military service
- Forgery or fraud
- *You were laid off or fired from your last job, and you have not worked 12 months in a row since then*
- Financial hardship

The hearing request form should have a list of boxes to check for your appeal reasons. Make sure to ask for a copy of your loan file, and explain in writing the reasons why you want a hearing. If you want a face-to-face hearing or telephone hearing, instead of just a paper review, you must explain why.

Enclose copies of documents to support your case. If you are claiming hardship, enclose proof of income. Enclose copies of bills and receipts for *all* your expenses. Don't forget expenses you pay once a year, or every few months. Also, don't forget expenses such as car repairs, which may come up once or twice a year.

### **What if my financial situation gets worse?**

Within 6 months of the date on your garnishment order, you can ask for a review if your financial situation gets worse. Do this *in writing*. Send it by certified mail, return receipt requested. Keep copies. Enclose proof of income and expenses.

## **CAN THEY TAKE MY GOVERNMENT BENEFITS?**

Most government benefits are safe from creditors. However, if you have a defaulted federal student loan, these monthly benefits are at risk:

- Social Security benefits (SSD, Retirement, and Survivors)
- Black Lung benefits (Part B only)
- Certain Railroad Retirement Benefits (except Tier 2)

All other benefits, *including SSI*, can't be taken.



### **How much can they take?**

There are limits on how much the U.S. Department of Education can take from your benefit checks. They can only take the *smaller* of:

- 15% of your monthly check; OR
- The amount of your monthly check above \$750

*If you get \$750 per month or less, they can't take anything out of your check.*

### **Can I object?**

You have the right to notice before your benefits are taken. You also have the right to:

- Ask for a copy of your loan file
- Ask for a hearing (if you want a phone hearing, state your reasons)
- Ask for a repayment plan

Make these requests *in writing*. Send your letter by certified mail, return receipt requested, to the address on the notice. Keep copies. Follow up with phone calls to the number on the notice. To keep your benefits while you are waiting, your request must be *received* within 20 days after the date on the notice.

### **How do I make a repayment plan?**

Follow the instructions on the notice to mail in your request for a repayment plan. Follow up with a phone call to the number on your notice. If you make a repayment plan, they can't take your benefits, as long as you make your payments.

When you make your request, ask about getting loan rehabilitation as your payment plan. To learn more, go to page 25 of this booklet. Loan consolidation can also get you out of default quickly – to learn more, go to page 28 of this booklet.



*If you are totally and permanently disabled, you should apply for a disability discharge instead. This will stop your benefits from being taken, until you get a decision on your application. To learn more, go to page 21 of this booklet.*

### **Can I Ask for a Hardship Waiver?**

Yes. The notice may not give any information about hardship waivers, so you will need to send your own letter to ask for it. Send your letter by certified mail, return receipt requested, to the address on the notice. Keep a copy. Follow up with phone calls to the number on the notice.

If you get Social Security benefits, the U.S. Department of Education may stop or lower the amount of benefits being taken, while they make a decision.

In your letter, explain your hardship situation. You must also enclose:

- A copy of the notice
- The notification letter showing your benefit amount
- Proof of yearly income
- Copies of bills and receipts for *all* household expenses
- Other proof of hardship, such as eviction notices, utility shut-off notices and foreclosure notices

Also, call the number on the notice to ask for a “Statement of Financial Status” form. When you get it, fill it out and mail it back within 10 days.

Remember: include proof of *all* your expenses. Don't forget expenses you pay once a year, or every few months. Also, don't forget expenses such as car repairs, which may come up once or twice a year.



### **MY STUDENT LOANS ARE REALLY OLD. ISN'T THERE A TIME LIMIT?**

Most debts have a time limit, called a “statute of limitations.” However, there is no time limit on federal student loans. Even very old federal student loans back to the 1970s are still good!

Loans that were not part of a federal program, such as private loans (and very old state loans), may have a time limit. In New York, this time limit is 6 years. If you stopped making payments more than 6 years ago, and the lender did not take you to court, the debt may be no good. Even if there is a court judgment against you, the debt is no good if the court judgment is over 20 years old.



*WARNING: admitting in writing that you owe the debt, making a payment, or consolidating will start the 6-year clock running again. Talk to a lawyer before you take any of these steps.*





## **SHOULD MY SPOUSE SIGN MY STUDENT LOANS?**

NO! If your spouse signs your loans, you can't get a deferment or forbearance unless you *both* qualify. You can still get a discharge or cancellation if you qualify. However, your spouse will still be responsible for their part of the loans, unless they also qualify. Also, you will both be at risk for wage garnishment, loss of your tax refund, and other problems.



## **WHAT ARE MY RIGHTS IF I HAVE PARENT (PLUS) LOANS?**

Parent PLUS loans may cause problems later on. For example, they may have a higher interest rate than other loans. Your choice of payment plans will be more limited. If you borrowed jointly with the other parent, you are still responsible for the loans if the other parent gets a discharge, unless you also qualify for a discharge. You can't get a deferment or forbearance unless both parents qualify. Also, you will both be at risk for wage garnishment, loss of your tax refund, and other problems.

It is best to have your child take out student loans on their own. Take out Parent PLUS loans only as a last resort. Instead, you can always help your child out with their payments in the future, if you can afford it!

If you consolidate a Parent PLUS loan with the Direct Loan Program, you can qualify for the ICR payment plan. *However, make sure to consolidate Parent PLUS loans separately from your other loans.* Otherwise, the bad features of the Parent PLUS loan rules will apply to your whole consolidation loan.

PLUS loans go into repayment right away, even if the student is still in school. However, you have the right to apply for a deferment while the student is in school, and for 6 months afterward. For Parent PLUS loans, the parent can apply for this deferment if either the student or the *parent* is in school.

## **WHAT ARE MY RIGHTS IF I HAVE A PRIVATE LOAN?**

Go to page 7 of this booklet first. Call 1-800-4-FED-AID, or go online, to see if your loan is in the federal system. *If your loan shows up in the database, it is NOT a private loan.* You may be surprised to learn that your loan is federal, not private.

*Private student loans can be very hard to deal with.* Interest rates can be very high. Lenders often refuse to work with you, even if you have a hardship. Worst of all, you may go into default even if you did not miss any payments! Some loan contracts say that you are in “default” if you file for bankruptcy, have a big loss of income, default on another student loan, or even if you die!

If you have a private loan, your rights are in your loan contract (called a “promissory note”). If you don’t have a copy, ask for one. Then, check it for information about payment plans, deferments, forbearance, discharge, cancellation and other rights.

Call your lender to talk about your problems. Your lender may have a website you can visit for information and forms. Some private lenders have hardship programs (although most do not). If your lender agrees to discharge your loan, take lower payments, or settle for less than you owe, get this *in writing*.

If you have a private loan:

- the lender must get a court order before taking part of your paycheck;
- the lender can’t take your tax refund or federal benefits;
- bill collectors must follow the Fair Debt Collection law (see page 32)
- there are time limits on how long the loan is good (see page 40)

If you are having problems with a private loan, get advice from a lawyer. If legal aid can’t help, you can get a free or very low-cost consultation with a private lawyer by calling 1-800-342-3661. Bankruptcy may be an option in some cases – go to page 18 to learn more.

Also, you can file a complaint with the federal Consumer Fraud Protection Bureau (CFPB). Visit their website at [www.consumerfinance.gov/students](http://www.consumerfinance.gov/students).

## **WATCH OUT FOR SCAMS!**

Never trust a company that promises to “fix” your student loan problems for a fee. Many of these companies take your money, but do nothing. Even worse, they may give false information about your rights.

You can fix your own student loan problems for free, using the information in this booklet. If you need more help, call your local legal aid office. There is also a list of free services for student loan borrowers on page 44 of this booklet.

## THE WORST MISTAKE YOU CAN MAKE...

Don't forget to call your student loan servicer when you move, to update your address, phone number and e-mail address. *It's not enough to just forward your mail at the post office.* Forwarding ends after 1 year. If the servicer can't reach you, you may lose important rights.

For example, if you are on ICR, IBR, PAYE or REPAYE, you must recertify every year. If you don't respond when the papers come, you will be put back on the standard plan. If this happens, you are probably heading for default again.

*You can't avoid your student loans by refusing to pick up certified letters, or throwing student loan mail in the garbage.* It's important to open all student loan mail, so you will know what's going on in time to get help.

### **An Even Sadder Story....**

John called legal aid and found out he could consolidate with Direct Loans to get out of default. When he filed his consolidation application online, he asked for the PAYE plan. He got payments of \$0 per month.

Since John's payments were \$0, he pretty much forgot about his new consolidation loan. He moved, and didn't call his servicer to change his address. The next year, when his recertification papers went out in the mail, he never got them.

John got put back on the standard plan. His payments went up to \$200 per month, and he didn't even know. After 270 days of missed payments, he was back in default all over again!



## **FREE RESOURCES FOR MORE HELP**

### **General Information:**

National Consumer Law Center – Student Loan Borrower Assistance website:  
[www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org)

Federal Student Aid information website:  
[www.studentaid.ed.gov](http://www.studentaid.ed.gov)

### **Student Loan Ombudsman Programs:**

Federal Student Loan Ombudsman  
U.S. Department of Education  
830 First Street NE  
Washington, DC 20202-5144  
1-877-557-2575  
[www.ombudsman.ed.gov](http://www.ombudsman.ed.gov)

NY State Higher Education Services Corporation (HESC)  
Agency Ombudsman  
(518) 408-0004

### **Default Help:**

U.S. Department of Education - Default Resolution Group:  
1-800-621-3115  
[www.MyEdDebt.com](http://www.MyEdDebt.com)

### **Collection Agency Complaints:**

U.S. Department of Education  
Chief of Contract Analysis and Compliance  
61 Forsyth St SW 19T89  
Atlanta, GA 30303  
1-800-621-3115  
[www.MyEdDebt.com](http://www.MyEdDebt.com)

### **Private Student Loan Complaints:**

Consumer Fraud Protection Bureau (CFPB)  
[www.consumerfinance.gov/students](http://www.consumerfinance.gov/students)

## **LIST OF FEDERAL LOAN SERVICERS**

Aspire Resources  
Edfinancial (ESA)  
FedLoan Servicing (PHEAA)  
Granite State (GSMR)  
Great Lakes Educational Loan Servicing  
MOHELA  
Navient  
Nelnet  
OSLA Servicing  
VSAC Federal Loans

## **LIST OF STUDENT LOAN COLLECTION AGENCIES**

Account Control Technology  
The CBE Group  
Coast Professional  
Collection Company of America (also known as Collecto or EOS)  
Collection Technology  
Con Serve  
Delta Management Associates  
Enterprise Recovery Systems  
Financial Asset Management Services (FAMS)  
FMS Investment Group  
GC Services  
Immediate Credit Recovery  
Iqor  
National Recoveries  
NCO  
Performant  
Pioneer Credit Recovery  
Premiere Credit of North America  
Progressive Financial Services  
Van Ru Credit Corporation  
West Asset Management  
Windham Professionals



**The Legal Aid Society of Mid-New York, Inc.**  
**268 Genesee Street**  
**Utica, New York 13502**  
**Tel: (315) 793-7000**  
**Fax: (315) 732-3202**

168 Water Street, 2<sup>nd</sup> Floor  
Binghamton, NY 13901  
Tel: (607) 231-5900  
Fax: (607) 724-7211

111 Port Watson Street  
Cortland, NY 13045  
Tel: (607) 428-8400  
Fax: (607) 753-7257

189 Main Street  
3<sup>rd</sup> Floor  
Oneonta, NY 13820  
Tel: (607) 433-2600  
Fax: (607) 433-1433

108 West Bridge Street  
Oswego, NY 13126  
Tel: (315) 532-6900  
Fax: (315) 342-1891

221 South Warren Street  
Suite 310  
Syracuse, NY 13202  
Tel: (315) 703-6600  
Fax: (315) 424-4911

215 Washington Street  
Suite 202  
Watertown, NY 13601  
Tel: (315) 955-6700  
Fax: (315) 785-9118

Farmworker Law Project  
52 South Manheim Blvd.  
New Paltz, NY 12561  
Tel: (845) 256-9096  
Toll Free: (800) 804-8575  
Fax: (845) 256-0494



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