



NACBA Urges U.S. Department of Education to Assess & Approve Undue Hardship in Student Loan Bankruptcy Discharge

For Immediate Release

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Washington, D.C.

The National Association of Consumer Bankruptcy Attorneys (NACBA) submitted comments to the U.S. Department of Education (ED) on May 17, 2018, ahead of ED's May 22, 2018, deadline requesting information on factors to be considered in evaluating undue hardship claims asserted by student loan borrowers in adversary proceedings filed in bankruptcy cases. NACBA had urged ED to use its rule-making authority to help the neediest borrowers in bankruptcy, including the disabled and families with income that has been substantially lower than the median for their state, by creating **safe harbors** where ED will not oppose the discharge of student loans. Additionally, NACBA provided information on the weight to be given to such factors, whether the existence of two tests for evaluation of undue hardship claims results in inequities among borrowers seeking undue hardship discharge, and how all of these considerations should weigh into whether an undue hardship claim should be conceded by the loan holder.

NACBA believes that ED can achieve significant cost savings by utilizing the U.S. Bankruptcy Courts to identify and write-off uncollectible student loans, and collect on other student loans in accordance with the borrowers' ability to pay. Moreover, NACBA urges ED to immediately implement internal operational changes as necessary to assure that the filing of a bankruptcy will not terminate an ongoing Income Driven Repayment plan, or a cancellation/discharge in process. NACBA believes actively utilizing U.S. Bankruptcy Courts to assess and approve undue hardship discharges would take advantage of an existing administrative structure and relieve the burden on ED and private collection agencies. NACBA further requests that ED provide accessible data regarding student loan collections in an effort to fully consider a thorough analysis of the state of student loan delinquency, defaults, and write-offs.

Read NACBA's full comments by visiting NACBA.org. Any questions should be directed to Krista D'Amelio, Director of Government Affairs & Communications at: krista.damelio@nacba.com

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