

Justice Department and Department of Education Announce a Fairer and More Accessible Bankruptcy Discharge Process for Student Loan Borrowers

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The Department of Justice, in close coordination with the Department of Education, announced today a new [process](#) for handling cases in which individuals seek to discharge their federal student loans in bankruptcy. The new process will help ensure consistent treatment of the discharge of federal student loans, reduce the burden on borrowers of pursuing such proceedings and make it easier to identify cases where discharge is appropriate. The Associate Attorney General [distributed guidance](#) outlining the new process to all U.S. Attorneys.

Congress has set a higher bar for discharging student loan debt compared to other debt — borrowers who seek to discharge their loans through bankruptcy must demonstrate that they will suffer “undue hardship” unless the debt is discharged. Although the bankruptcy judge makes the final decision whether to grant a discharge, the new process announced today provides Justice Department attorneys with clear standards for recommending discharge to the judge without unnecessarily burdensome and time-consuming investigations. The new process will also help borrowers who did not think they could get relief through bankruptcy more easily identify whether they meet the criteria to seek a discharge.

“Today’s guidance outlines a better, fairer, more transparent process for student loan borrowers in bankruptcy,” said Associate Attorney General Vanita Gupta. “It

will allow Justice Department attorneys to more easily identify cases in which we can recommend discharge of a borrower's student loans. We are grateful to the Department of Education for its partnership in developing this guidance."

"Congress may have set a higher bar for granting student loan discharges during bankruptcy, but in practice that bar has become very difficult for deserving borrowers to clear," said U.S. Under Secretary of Education James Kvaal. "After decades of inaction in Washington, our Department of Education team was determined to partner with the Justice Department to craft clearer, fairer, and more practical standards to guide recommendations for student debt discharges during bankruptcy proceedings. This guidance is an important step toward helping struggling borrowers, many of whom never completed college or were misled into debt by dishonest schools."

As part of the undue hardship analysis, courts review the borrower's past, present and future financial circumstances. The new process will leverage Department of Education data and a new borrower-completed attestation form to assist the government in assessing a borrower's discharge request. The Justice Department, in consultation with the Department of Education, will review the information provided, apply the factors that courts consider relevant to the undue-hardship inquiry and determine whether to recommend that the bankruptcy judge discharge the borrower's student loan debt.

The Department of Justice and Department of Education are committed to making this system work for borrowers. Both agencies will continue to monitor how the process plays out on the ground and will assess the effectiveness of this guidance after the first year, and beyond as warranted.

By simplifying the process and establishing clear standards, the agencies hope to significantly reduce the burden on borrowers and government attorneys, provide a clear path for borrowers to seek discharges and add safeguards to promote consistency and predictability.

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