

Never assume a student loan is non dischargeable.

It may not be a loan (a simple debt such as rent or tuition). Is the college [a qualified school](#). It may not be a "qualified" loan and automatically dischargeable. It may also be a VA or Service loan and only require 5 year or no waiting. Check at <http://ope.ed.gov/accreditation/Search.aspx>

If it is a military loan it is probably dischargeable by just listing it and filing after the proper waiting period. 38 USC 7634 or 37 USC 303a(e)(4)

If it is not automatically dischargeable is it Private, Government or does the undue hardship apply. Check to see if it is a Government loan with the [National Student Loan Data System](#).

If it is a Government loan can I get an administrative discharge for a disability or other admin discharge. Can it be placed into Income Based Repayment or Public Service Plan if I don't have the income. Undue hardship should rarely be necessary for Government loans. Rehabilitation is available if it only fell overdue and prevents a home purchase. Statute of limitations and other defenses are not available against Government loans. Government student loans generally do not enter default until 270 days overdue.

If it is Private student loan? You can defend against Private loans just like credit card debt. Does the Statute of Limitation apply SOL varies from 3-15 years from state to state. Is this the original lender that has sued or a holder. Fair Debt collection practices act applies when the debt enters default almost immediately for untrue statements or abusive behavior.

Only use Undue Hardship Bankruptcy after you can show all the other alternatives have been exhausted and there are no other choices for the judge. A Chapter 13 Bankruptcy can age a Private loan to make it uncollectible under the statute of limitations. If it can be shown repayment would be an undue hardship and there are no programs to discharge the debt then undue hardship applies. Private loans have no alternatives and are much easier to discharge. 50-80% of cases filed obtain a full or partial undue discharge or better terms. .  
Government loans can normally be placed into an IBR which can have a 0 per month payment. Government loans can also be rehabilitated by making 9 of 10 on time affordable payments. Rehab payments may be as little as 5 dollars. Collectors are paid commissions. They may not immediately offer 5 dollar plans. The bonuses and commissions earned by collectors range from 100-450,000 per year. The failure/refusal to offer affordable terms can be a basis for undue hardship and forcing an IBR or rehabilitation to become affordable.

Nick Thompson Louisville KY 502-625-0905