

Regaining Title IV Eligibility While in a Bankruptcy

You, or your client, are interested in re-establishing Title IV eligibility after defaulting on federal student loans, but you are also in an active bankruptcy. The Bankruptcy Reform Act of 1994 included changes that impacted Title IV aid for borrowers who have filed bankruptcy. In response, the U.S. Department of Education (ED) issued a Dear Colleague letter, GEN-95-40, and the FAQ attachment to the Dear Colleague letter, which provided general guidance on how eligibility determinations should be made for defaulted borrowers who are also in a bankruptcy status.

The following provides information that might be useful to a borrower who is in that situation:

1. Borrowers who have defaulted and are currently in a Chapter 11, 12, or 13. An individual who lists a non-dischargeable, defaulted Title IV loan or grant overpayment in a bankruptcy filing under Chapter 11, 12, or 13 of the Bankruptcy Code must provide for a "satisfactory repayment arrangement" of the debt and must provide evidence of six consecutive payments in order to regain Title IV eligibility. Below are examples of how this requirement may be met:
 - If the student loan debt is listed and scheduled to be paid something in the plan, the borrower must send in proof of six current, consecutive payments to the trustee to be considered as being in a "satisfactory repayment arrangement."
 - If the student loan debt is listed but scheduled to be paid outside of the Chapter 13 plan, and/or the plan requires payments to be made directly by the borrower to the holder of the loan, the borrower must make at least six current, consecutive payments to Educational Credit Management Corporation (ECMC) to constitute a "satisfactory repayment arrangement" through their bankruptcy plan.
 - If the student loan debt is not listed, or if the student loan debt is listed, but the plan provides for 0% to be paid to general unsecured creditors, then the borrower is not considered to have established a "satisfactory repayment arrangement" through their bankruptcy plan.
2. Borrowers who have defaulted and are currently in a Chapter 7. If you are seeking additional Title IV aid and have listed a non-dischargeable, defaulted Title IV loan or grant overpayment in a Chapter 7 bankruptcy filing, you must enter into a "satisfactory repayment arrangement" as well, and make six consecutive, on-time payments to the holder of your loan. You will remain ineligible for new Title IV aid until a "satisfactory repayment arrangement" is made.
3. Consolidation: If you are in a Chapter 13 bankruptcy and have not met the requirements to establish a "satisfactory repayment arrangement" through your bankruptcy plan, another option for regaining Title IV eligibility is loan consolidation:
 - a. A defaulted borrower may be eligible for loan consolidation through the Direct Consolidation Loan program. A borrower who resolves their default

by consolidating their defaulted loan(s) can also regain eligibility for Title IV aid.

- b. However, consolidating a loan during an active bankruptcy is considered a post-petition debt and is something a borrower should discuss with his/her attorney. Permission from the bankruptcy court and/or trustee may be required prior to consolidating the defaulted federal student-loan debt while in an active bankruptcy.

4. Other important considerations:

- a. A defaulted student loan borrower can re-establish his/her Title IV eligibility only once.
- b. Once re-established, a borrower must sustain the satisfactory repayment arrangement by continuing to make payments or eligibility for additional Title IV funding will be lost. If any future payments are missed, Title IV eligibility will be lost and the borrower will not be eligible for this program again.