

# One Big, Beautiful Call to Action

## Student Loans, Bankruptcy and the Urgent Role of the Consumer Debtor's Attorney

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The “One Big Beautiful Bill” (OB BB), signed into law on July 4, 2025, may have been greeted with a celebration of fireworks, but for millions of Americans—and especially for those in bankruptcy—it may set them on a treacherous path.

For the 43 million Americans holding \$1.8 trillion in federal student loan debt, this bill is changing the rules of repayment. But for debtors in bankruptcy, it is more than a policy shift; it is a cliff. And whether borrowers leap into financial ruin or climb toward meaningful relief may depend entirely on whether their bankruptcy attorney is paying attention. (And if there's anyone who understands what happens when you go over a cliff, it's Ed Boltz.)

### TWO CRISES COLLIDE: FORBEARANCE AND THE DEATH OF IDRS

Historically, student loan borrowers in bankruptcy have been forced into silence. Not just by the legal complexity, but by the servicers' routine imposition of administrative forbearance—a bureaucratic black hole that suspends payments, stops forgiveness progress, and silently increases balances through interest accrual.

Now comes the OB BB, which replaces existing income-driven repayment (IDR) plans with two limited options: a new tiered Standard Plan (with terms from 10-25 years based on balance) and the Repayment Assistance Plan (RAP), which calculates payments as a percentage of total adjusted gross income. In most cases, these new plans will be less affordable. In addition, the Standard Plan has no forgiveness, while RAP requires 30 years of payments. For Parent PLUS borrowers, OB BB eliminates access to any income-driven repayment plan including RAP.

If bankruptcy attorneys allow their clients' loans to drift into forbearance during a case, they may permanently forfeit affordable

repayment options. Most debtors—and even some practitioners—won't realize what they've lost until it's far too late.

### STEP 1: LEVERAGE THE DOJ GUIDANCE—A TRANSFORMATIVE TOOL FOR DISCHARGE

The November 2022 Department of Justice (DOJ) Guidance, issued in coordination with the Department of Education, created a standardized, transparent and successful process for seeking student loan discharge in bankruptcy based on “undue hardship.”

Since implementation, more than 85% of cases result in full or partial discharge when debtors submit the attestation and follow the adversary procedure.

## ATTORNEY CHECKLIST FOR 2025 AND BEYOND



- ✓ Screen every debtor for federal student loans.
- ✓ Evaluate dischargeability under the guidance and pursue where appropriate.
- ✓ Evaluate consolidation eligibility before June 30, 2026 (especially for Parent PLUS borrowers).
- ✓ Enroll in IDR before July 1, 2028.
- ✓ Avoid administrative forbearance—use plan language!
- ✓ Communicate with servicers as allowed under Buchanan/SLMPs.
- ✓ Reinforce that IDRs during bankruptcy are not disqualifying.

There is no filing fee. There is no presumption of resistance. There is no better tool in the bankruptcy lawyer's toolbox.

And this is not a Biden-era novelty—the process began under the first Trump administration in response to persistent input from the National Association of Consumer Bankruptcy Attorneys (NACBA), National Consumer Bankruptcy Rights Center (NCBRC) and other borrower advocates. It has continued to be used by U.S. attorneys under the second Trump administration.

### STEP 2: PRESERVE REPAYMENT OPTIONS BEFORE THEY'RE GONE

Not every borrower qualifies for undue hardship discharge. But for those who don't, there is still a closing window of opportunity to preserve access to current IDR plans.

Under the OB BB, so long as debtors do not consolidate or take out any new loans after July 1, 2026, they can enroll in existing IDRs. Debtors who enroll in the Income-Contingent Repayment (ICR) and/or Pay As You Earn (PAYE) plans can remain on these plans until July 1, 2028, while debtors who enroll in the Income-Based Repayment Plan (IBR) before July 1, 2028, can remain on IBR indefinitely. Even Parent PLUS borrowers have options. As long as Parent PLUS borrowers consolidate their loans before July 1, 2026, and enroll in IBR before July 1, 2028, they can stay in IBR indefinitely.

To secure access to the legacy IDRs, attorneys will need to include the “Buchanan

Provisions” in their plan or work through their court's Student Loan Management Program (SLMP) where available.<sup>2</sup>

Debtors who take no action will be stuck with higher monthly payments, no forgiveness and no flexibility. Parent PLUS borrowers face the harshest reality: Total loss of IDR access if they don't consolidate in time.

### FINAL THOUGHTS: SILENCE IS NOT NEUTRAL—IT'S DESTRUCTIVE

The greatest danger facing student loan borrowers in bankruptcy isn't hostility. It's neglect.

Servicers won't tell them. The Trustee won't notice. The court won't stop them. Only their attorney can.

The legal tools are here. The deadlines are set. The clients are walking in your door. Let's show them the path. ■

### FOOTNOTES

1. The Buchanan Provisions—first circulated in the March 2018 USA Bulletin by the Executive Office for U.S. Attorneys—were developed during the first Trump administration in coordination with ED, DOJ, and the National Association of Chapter 13 Trustees. These provisions protect student loan servicers during bankruptcy and allow them to enroll debtors into IDRs.
2. The following courts have Student Loan Management Programs—Florida—Middle, Florida—Northern, Florida—Southern, Pennsylvania—Eastern, and Vermont. These programs provide for a structured process by which debtors can enroll in IDRs and automatically include Buchanan Provision protections for the student loan servicers.