If there were serious problems with the school, if you are disabled (or have passed away), even if you are in default on the loan, you may be able to apply to have your federal loan discharged—that is cancelled—by submitting paperwork to your loan servicer, debt collector, or directly to the Department of Education. This is an administrative process. Ask whoever is holding your loan for the appropriate discharge request form. The forms are also available at https://studentaid.ed.gov [1]. Be prepared to meet resistance and delay, insist on your rights, and consider seeking assistance from an attorney. You may also have rights to cancel the debt by filing bankruptcy.

A successful administrative discharge may not only completely wipe out the current loan, but may in some cases allow you to get back money you paid on the loan and any money that was taken from you through tax refund intercepts, wage garnishment, or other collection methods. In some cases, the government is also required to delete negative references on your credit report.


Closed School Discharge. If your school closed while you were enrolled or within 120 days of your leaving the school, your loans can be discharged. In a few cases, the 120-day period may be extended. New rules scheduled to go into effect in July 2020 will extend this period to 180 days for borrowers who first take out loans on or after July 2020.

Unpaid Refund Discharge. You are eligible to discharge all or a portion of a loan if you left school and the school failed to pay you a refund you were owed.

Borrower Defense to Repayment Discharge. You may seek to discharge all or a portion of a loan if your school lied to you or otherwise misled you in convincing you to enroll, stay enrolled, or take out loans, or in some cases engaged in other misconduct violating state law. The rules for this discharge program have changed several times in recent years and differ depending on when your loans were disbursed. For many borrowers your eligibility for this discharge also ends after a certain number of years after leaving school, so it is important to act quickly if seeking this discharge. For more information on the particular standards applicable to your loans and how to apply for discharge, consult www.studentloanborrowerassistance.org [2], https://studentaid.ed.gov [1], or NCLC’s Student Loan Law [3] (6th ed. 2019), available at www.nclc.org/bookstore [4].

False Certification Discharge. A false certification discharge application form is available if any of the following happened to you (or to the student, if you’re a Parent PLUS borrower):

- At the time of enrollment, state law disqualified you from getting a job in the occupation for which you were being trained (for example, you were enrolled in a truck driving program even though you had a physical disability that prevented you from obtaining a truck-driving license).
- You did not have a valid high school diploma or GED when you went to the school, and your school did not ensure that you met the applicable alternative financial aid eligibility criteria (such as through an ability-to-benefit test).
- The school forged your name on the loan papers or check endorsements, and you never went to school for the times covered by the forgery.

Disability Discharge. You can discharge your loan if the Department of Veterans Affairs, the Social Security Administration, or your physician certifies that you have a total and permanent disability. Parents with PLUS Loans may apply for discharge based on their own disabilities, not those of their child. If two parents have a PLUS Loan and only one becomes disabled, the other must still repay the loan.

The first step to apply is to notify Nelnet (a company hired by the Department of Education), by calling 888-303-7818 (8 a.m. to 8 p.m. EST, 7 days a week), e-mailing DisabilityInformation@Nelnet.net, or applying at www.disabilitydischarge.com [5]. You can designate a representative to apply on your behalf, but you first must fill out the representative designation form available at www.disabilitydischarge.com [5]. Additional details about applying are available there as well.

Death Discharge. Your family or estate will not have to pay back your student loans if you die. Your estate should submit an original or certified copy of the death certificate to the loan holder. The death of both parents with a PLUS Loan (assuming both took out the loan) is also grounds for the “death discharge,” but not the death of only one of two obligated parents. A parent can also apply for discharge of a PLUS Loan if the student for whom the parent received the loan dies.

Other Grounds for Loan Cancellation or Forgiveness. The Public Service Loan Forgiveness program allows Direct Loan
borrowers employed in certain occupations to discharge any remaining loans after making 120 qualifying payments (the equivalent of ten years of payments). Borrowers must be in specific repayment plans for their payments to qualify them for forgiveness in this program. Certain teachers who have taught for five consecutive years are also eligible for at least partial loan forgiveness. Perkins Loans also may be partially or completely cancelled for borrowers who work in certain fields. Be sure to review the details about all of these programs at https://studentaid.ed.gov [1].

Bankruptcy. It is very difficult, but not impossible, to discharge a student loan in bankruptcy. You must prove that repaying the loan would cause an “undue hardship” for you and your dependents. Courts generally interpret this to mean that you must have serious financial problems which are likely to persist for reasons beyond your control. It is usually better to ask the bankruptcy court to make this determination at the time of the bankruptcy filing, but if you fail to do so, the bankruptcy court can make that determination later when collection attempts on the student loan are renewed.

Source: National Consumer Law Center, Surviving Debt [50th NCLC Anniversary Edition], updated at www.nclc.org/library
Source URL: https://library.nclc.org/sd/1303

Links