This treatise is designed to help advocates negotiate the world of student financial assistance. The primary focus is on federal loan programs, with a separate chapter on private student loan issues.

Chapter 1 reviews the primary types of student assistance and how to help clients find out what types of loans they have. This chapter also reviews basic eligibility criteria for federal loans, including student and institutional eligibility. Although this treatise concentrates on repayment issues and how to help borrowers after they have taken out loans, this chapter also contains information about prerequisites that all students must meet to borrow through the federal loan programs, including application requirements and eligibility criteria. It includes a checklist for advocates to follow in assisting clients with student loan problems.

Chapter 2 [1], infra, focuses on the process for borrowers for taking out a loan, including Master Promissory Notes, required disclosures, disbursement and cancellation rights, and counseling requirements. It also describes the terms of the various federal loan programs, including loan limits, interest rates, and limits on origination fees and late charges that are set by law.

Chapter 3 [2], infra, reviews all of the federal student loan pre-default repayment options, including the income-driven repayment plans.

Chapter 4 [3], infra, provides detailed information about borrowers’ rights to delay payment through deferments and forbearances.

Chapter 5 [4], infra, focuses on federal student loan servicing, including the basic structure, common problems, and possible relief for borrowers.

Chapter 6 [5], infra, describes in greater detail the problem and consequences of student loan defaults in both the federal and private contexts. It also discusses the way federal defaults are measured and problems with the cohort default rate calculation.

Chapter 7 [6], infra, is an essential guide to the ways borrowers can get out of default through repayment. The main options are loan consolidation, rehabilitation, compromise, and settlement.

Chapter 8 [7], infra, describes the federal student loan collection process after default. This chapter also reviews typical problems with collection, including fair debt collection violations, and permissible collection fees. In addition, this chapter includes information about defenses to collection actions involving federal student loans.

Chapter 9 [8], infra, discusses the major government extra-judicial collection tools for federal student loans, including tax offsets, garnishment, and benefits offsets.

Chapter 10 [9], infra, presents the primary loan cancellation options available for federal student loan borrowers—including closed-school, false-certification, borrower defense, unpaid-refund, disability, death, and career-related (including public service) cancellations.

Chapter 11 [10], infra, details the opportunities and limits on pursuing discharge of student loans in bankruptcy.

Chapter 12 [11], infra, summarizes the history of private student loans and reviews the problems with these products. This chapter also describes possible remedies for borrowers and laws, such as those promulgated under the Truth in Lending Act, that apply only to private student loans. Collection defenses that are most relevant in private student loan cases are also covered in this chapter.

Chapter 13 [12], infra, examines predatory school conduct from a consumer protection perspective. This chapter describes the oversight system for schools participating in federal assistance programs. This chapter also covers predatory school practices and the possible avenues of relief for borrowers harmed by such conduct.

Chapter 14 [13], infra, discusses affirmative litigation against a variety of actors involved in the federal student loan system, including servicers, guarantors, collection agencies, and schools. This chapter details the federal and state claims borrowers may potentially raise—and a range of related topics—including selecting defendants, deciding whether to bring an individual or class action, developing the case, addressing obstacles, such as sovereign immunity, preemption, and arbitration requirements, and proving actual damages.

The appendices to this treatise reprint key student loan statutes and regulations and contain various practice aids. Most of the
practice aids, however, are available online only. Appendix A [14], infra, includes critical federal student loan statutes. Key regulations can be found in Appendix B [15], infra. A list of selected Department of Education policy guidance letters is included as Appendix C [16], infra, and the text of these letters are available online as companion material to this treatise.

Appendix D [17], infra, lists the forms that are available online as companion material to this treatise. Appendix E [18], infra, provides a guide to finding the pleadings for practitioners available with the online version of this treatise. Appendix F [19], infra, includes a current list of state guaranty agencies along with addresses and telephone numbers. Appendix G [20], infra, contains a current list of collection agencies that contract with the Department of Education. Appendix H [21], infra, has basic information about NCLC’s Student Loan Borrower Assistance website (www.studentloanborrowerassistance.org). Appendix I [22], infra, lists useful websites on student loan issues.

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