This checklist should help advocates organize and review a student loan case. Extensive information about each topic in the checklist can be found in this treatise. A sample intake checklist is available online as companion material to this treatise. Advocates should also be prepared to submit third-party authorization forms to the Department, loan holders, servicers, and collectors.

Before reviewing the various options below, advocates should first determine:

- The type of student loan;
- Loan origination date;
- Whether the client is already in default;
- Whether collection has begun (and, if so, the time deadlines for responding to the collection action); and
- The client’s goals and financial situation.

Some clients will have a number of different types of loans. If the loan is a private loan, the rest of this checklist is not relevant. In private-loan cases, borrowers should request copies of their loan agreements to determine whether the lender promised particular benefits. The next step is generally to try to negotiate with the lender unless the borrower has a legal claim or defense as discussed in Chapter 14

Throughout this analysis, it is important to speak with clients about their goals. Do they want to go back to school? If so, getting out of default as soon as possible is critical. If instead they are primarily interested in stopping the collection efforts, it is then important to focus on challenging collection efforts, as discussed in Chapters 8 and 9, and, if there is a school-related defense, as discussed in Chapter 10. In addition, possible fair debt collection violations, discussed in Chapter 8, should also be considered.

It is important to get a sense of the client’s overall budget and, in particular, to determine whether the client is collection-proof. A client is collection-proof if he or she does not have any money or property that can legally be taken to pay the debt.

It is difficult, although not impossible, for a client to be completely protected from government student loan collection. Clients without significant federal benefits, without wages, without tax refunds, and with no other significant assets will most likely be safe from student loan collection, at least temporarily. However, as discussed in Chapter 8, the elimination of a statute of limitations for federal student loan collections means that the debt may come back to haunt the client in the future.

Footnotes

319 [309] The sample intake checklist is available as online companion material to this treatise (see under the Practice Tools heading, then click on the Student Info link).

320 [310] Third-party authorization forms are available online as companion material to this treatise (see under the Practice Tools heading, then click on the Privacy Forms link). Additionally, the Department of Education ombudsman has used its own third-party authorization form, which is available as companion material to this treatise.

321 [311] See Chs. 8 (possible fair debt violations and defenses to collection actions), 9 (defenses to tax refund intercepts, wage garnishments, and federal benefits offsets), 10 (school-related defenses to repayment), infra.