

## **Chapter 13 Plan Non-Standard Provision for Student Loan IDR Plans During Bankruptcy**

For use by a debtor not in default on Federal student loans who wants to enroll in or remain in an IDR repayment plan while in a Chapter 13 bankruptcy plan.

### **Nonstandard Plan Provisions**

1) Student Loan Debt Non-Dischargeable

In accordance with 11 U.S.C. § 523(a)(8), this Chapter 13 plan of reorganization (“Chapter 13 Plan”) cannot and does not provide for a discharge, in whole or in part, of the Debtor's federal student loan debt authorized pursuant to Title IV of the Higher Education Act of 1965, as amended (“Federal Student Loan(s”).

2) Identification of Federal Student Loan Debt

a) Only Federal Student Loans that are currently in an income-driven repayment (“IDR”) plan, or which Debtor is eligible to repay under an IDR plan during the pendency of this Chapter 13 case, are listed in subsection (2)(b), below. Debtor could owe other student loan obligations. The special provisions contained in Section 8 of the Chapter 13 Plan only apply to the Federal Student Loans listed in subsection (2)(b), below.

b) As of [Insert date bankruptcy petition was filed], the Debtor's Federal Student Loan debt includes the following Title IV Student Loans:

Title IV Loan Holder	Date Loan Obtained	Type of Loan (Direct, FFEL, Subsidized, Unsubsidized)	Original Loan Amount

c) The Federal Student Loans identified in subsection (2)(b), above, are held by the United States Department of Education (“Education”) and / or [insert here other Title IV Student Loan Holders if applicable], pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. 1070, et seq. Hereinafter, Education and other Title IV Student Loan Holders are referred to individually and collectively as “Title IV Loan Holder.”

3) Federal Student Loans not in Default

As of [Insert date bankruptcy petition was filed], the Debtor is not in default (or may be eligible to rehabilitate such debt), as defined in 34 CFR 682.200(b) or 685.102, as applicable, on any Federal Student Loans listed in subsection (2)(b) of this Section.

4) Proof of Claim

The Debtor affirms that a timely proof of claim has been filed with the Bankruptcy Court for each Federal Student Loan listed in subsection (2)(b) of this Section. If a Title IV Loan Holder has not filed a proof of claim for a Federal Student Loan listed by the Debtor in subsection 2(b), the Debtor may file a Motion to Allow Trustee to Pay the Federal Student Loan debt.

5) Continuation of Pre-Petition Federal Student Loan IDR Plan

a) During the course of this Chapter 13 bankruptcy case until its dismissal or closure, the Debtor may continue participating in the IDR plan in which the Debtor participated pre-petition and for which Debtor otherwise continues to be qualified as determined by the Title IV Loan Holder.

i) The Debtor's monthly IDR plan payment is, as of the date of Debtor's bankruptcy petition, \$\_\_\_\_\_.

ii) The Debtor's monthly IDR plan payment is due to the Title IV Loan Holder on the [insert day of the month] day of each month.

b) Debtor's Monthly Payments for Pre-Petition IDR Plan

i. In order for the Chapter 13 Trustee to transfer timely the Debtor's first post-confirmation payment on the IDR plan, the Debtor must remit that IDR plan payment to the Chapter 13 Trustee *in advance* of the first post-confirmation payment due date, and in good funds (money order, bank check, TFS payment, or payroll deduction), so as not to delay the Chapter 13 Trustee's transfer of those funds to the Title IV Loan Holder.

ii. The Title IV Loan Holder will be paid through the Chapter 13 plan as a Special Class Creditor.

iii. Following confirmation of this Chapter 13 Plan and in addition to the Debtor's scheduled Chapter 13 Plan payment to the Chapter 13 Trustee's office, the Debtor will remit to the Chapter 13 Trustee the monthly IDR plan payment. The Chapter 13 Trustee will transfer the IDR plan payment funds to the Title IV Loan Holder.

iv. The Debtor must remit each post-confirmation IDR plan payment to the Chapter 13 Trustee *in advance of the IDR payment due date*, and in good funds (money order, bank check, TFS payment, or payroll deduction), so as not to delay the Chapter 13 Trustee's transfer of the IDR plan payment to the Title IV Loan Holder.

- v. If the Debtor does not timely or fully remit sufficient funds to the Chapter 13 Trustee for Debtor's monthly IDR plan payment, the Chapter 13 Trustee is not required or responsible to transfer funds to the Title IV Loan Holder from the Debtor's general bankruptcy estate for that monthly payment. The Chapter 13 Trustee is not responsible for the Debtor's late or missing IDR plan payments caused by Debtor's failure to remit funds to the Chapter 13 Trustee for transfer of the IDR plan payment by the Chapter 13 Trustee's office.
- vi. Upon request of the Chapter 13 Trustee, the Debtor will request the Title IV Loan Holder modify Debtor's monthly IDR plan payment due-date to accommodate the Chapter 13 Trustee's disbursement schedule.

ALTERNATIVE Paragraph 5 (use if Debtor will apply to and enroll in an IDR plan during Debtor's Chapter 13 plan)

6) Initial Participation in an IDR Plan

- a) During the course of this Chapter 13 bankruptcy case until its dismissal or closure, the Debtor may submit an application for participation in any IDR plan for which the Debtor is otherwise qualified to any Title IV Loan Holder pursuant to 34 CFR 685.208, 34 CFR 685.209, 34 CFR 685.221 or 34 CFR 682.215.
- b) The Title IV Loan Holder is not required to place the Debtor in an IDR plan.
- c) The Debtor will provide notice to the United States Bankruptcy Court for the \_\_\_\_\_ District of \_\_\_\_\_ (“Bankruptcy Court”) and the Chapter 13 Trustee of Debtor's application for participation in an IDR plan.
- d) If the Debtor submits an application for participation in an IDR plan and the Title IV Loan Holder determines the Debtor is qualified under the standard terms for participation specified in 34 CFR 685.208, 34 CFR 685.209 34, CFR 685.221, or 34 CFR 682.215, the Title IV Loan Holder may place the Debtor in an IDR plan while this Chapter 13 case is open.
- (i) If the Title IV Loan Holder places the Debtor in an IDR plan, it is expressly understood and agreed by the Debtor that the Debtor's monthly IDR plan payments

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