

THE DEBT THAT NEVER GOES AWAY

ADDRESSING FEDERAL STUDENT LOAN ISSUES WHILE IN DOMESTIC VIOLENCE SHELTER

I. INTRODUCTION

In 2010, the United Way of New York City launched a large-scale financial development integration initiative called Ready, Set, GreenLight. Alongside the New York City's Human Rights Administration's Office of Domestic Violence and Emergency Intervention Services, The Financial Clinic (the "Clinic") has been a proud partner to help achieve GreenLight's dual mission to (a) train domestic violence advocates at all levels of the domestic violence shelter system in financial development work and (b) provide consumer law legal services to domestic violence survivors ("survivors") associated with shelters. To date, the initiative has:

- ▶ Trained 257 advocates at 28 organizations from 66 different shelter and non-residential programs;
- ▶ Helped survivors eliminate more than \$90,000 of debt; and
- ▶ Provided "Know Your Rights" workshops to more than 150 survivors.

In the project's second year, the Clinic continues to provide introductory and advanced trainings to domestic violence shelter case workers, while also offering high-quality, free legal services to survivors. Capitalizing on the lessons learned from two years of training and direct advocacy, the Clinic has created a Field Report series to provide advocates with concrete strategies and tools to overcome the many barriers that survivors encounter on their path to financial security. This Field Report also sets forth several policy recommendations that local, state, and national decision makers should adopt to better protect the rights and the financial security of survivors.

II. STUDENT LOAN DEFAULTS & FINANCIAL INSECURITY

Federal student loan default is defined as failing to make required student loan repayments for nine or more consecutive months.¹ In 2011, student loan debt outpaced credit card debt as the largest source of American debt—more than \$1 trillion in student loan debt.² Rising debt levels coupled with high rates of unemployment has led to an increase in student loan default from 7 percent to 8.8 percent in 2009, the most recent data available.³ Survivors of domestic violence are especially vulnerable to defaulting on student loans since they have higher rates of unemployment and lower incomes than the general population as a whole. Since defaults can produce devastating effects on survivors, case workers who help survivors with identifying and managing potential financial issues provide a critical support during the early stages of separation.

A. REDUCING EMPLOYMENT OPPORTUNITIES

Many survivors leave their jobs when they flee to shelter and those that remain employed often work for very low wages. Once in shelter, unemployed and underemployed survivors actively search for jobs opportunities to attain financial security that will help them break the cycle of violence. However, because employers are increasingly using pre-employment credit screenings to narrow their applicant pool, student loan default could prevent survivors from securing those crucial jobs. A defaulted student loan is considered serious adverse information on a credit report and those with damaged credit are often removed automatically from consideration for certain positions, seriously jeopardizing survivors' chances of finding gainful employment.

B. ADDITIONAL BARRIER TO SECURING PERMANENT HOUSING

Landlords also scrutinize credit reports before leasing apartments and routinely reject applicants who have negative items, including defaulted student loans, on their credit histories. A defaulted student loan may thus also prevent a survivor from successfully transitioning out of shelter and into safe, sustainable housing.

C. DIVERTING MUCH-NEEDED FUNDS THROUGH GARNISHMENTS AND OFFSETS

Borrowers in student loan default are at risk of paycheck garnishments and tax refund offsets. Many domestic violence survivors are often low-income and supporting their children—making them eligible for a variety of tax credits that can be as much as 40 percent of the income they will receive for the entire year. Since the United States Department of Education can place offsets on tax refunds, survivors in student loan default will not receive those crucial refund dollars that allow them to pay their rent, buy food, and generally make ends meet.

D. BLOCKING THE SILVER BULLET

Those survivors in default are ineligible for additional student loans, which makes it significantly more difficult for them to further their education. Student loan default prevents survivors from furthering their education, which is particularly disturbing given that 77 percent of case workers we surveyed agreed or strongly agreed that “Most survivors I meet plan to go back to school to further their education.” Sadly, survivors in student loan default will be unable to pursue more education if they remain in default, because they will be ineligible for additional student loans.

III. GETTING OUT OF FEDERAL STUDENT LOAN DEFAULT WHILE IN SHELTER

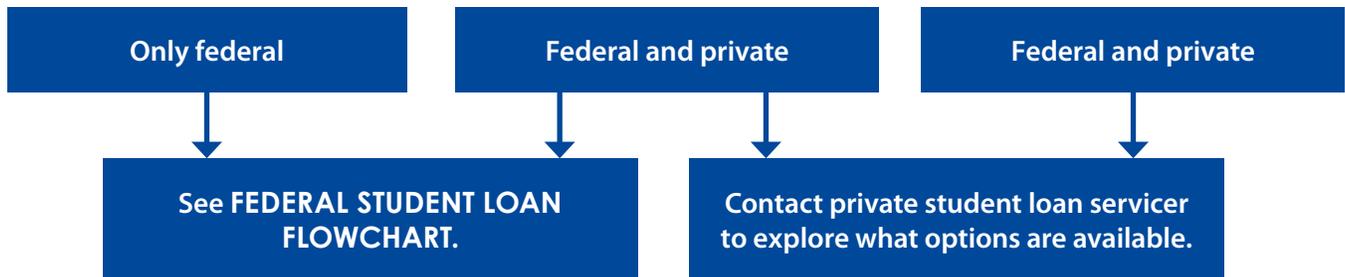
Fortunately, a variety of favorable government programs make getting out of federal student loan default fairly straightforward and easily attainable. Before addressing any student loan default issue, shelter case managers need to make sure they assist survivors with getting a full picture of their federal student loan history.

Best Practice: Borrowers with private student loan debt will not find their loans listed in National Student Loan Data System (“NSDLS”), and in general, private student loan lenders typically do not offer favorable repayment options. Individuals in private student loan default should contact their student loan servicer immediately to see what programs are available. If private student loan borrowers are sued for non-payment, they should contact an attorney immediately to see if there are any specialized defenses they may be able to assert.

A. A STEP-BY-STEP GUIDE

Shelter caseworkers should be careful to determine and distinguish which loans are federal and which loans are private. These steps are summarized in this chart below.

Does the survivor have federal student loans, private student loan, or both federal and private student loans?



B. GATHERING INFORMATION ABOUT A SURVIVOR'S FEDERAL STUDENT LOANS

The easiest way to find that information is by using the National Student Loan Data System ("NSLDS"), which can be accessed at nslds.ed.gov. For survivors who have federal student loans, NSLDS is just as important as checking one's credit report. Once survivors are logged into NSLDS, they can access loan-specific information about each of their student loans, which they should print out. A key piece of information is the status of the student loan. Possible statuses include in repayment, delinquent, or in default.

- ▶ Repayment means the borrower is current on her student loan payments.
- ▶ Delinquent means the borrower has missed between one and eight payments.
- ▶ Default means the borrower has missed nine or more consecutive payments.

Survivors who are merely delinquent are still eligible for Income Based Repayment (IBR), a deferment, or a forbearance.

Best Practice: Timing is everything. Ignoring collection notices and calls while one is delinquent is not advisable because going into student loan default has many significant adverse consequences. Even a survivor who is current on her student loans but is having difficulty paying can apply for IBR, which can dramatically lower her monthly payment.

Best Practice: A common hurdle in accessing NSLDS is inputting the PIN. Most people do not remember their PIN, but they can easily change their PIN by going to pin.ed.gov.

C. USE THE STUDENT LOAN FLOW CHART TO HELP SURVIVORS MAP THEIR WAY OUT OF DEFAULT

The Student Loan Flow Chart is a useful map to help shelter staff and survivors navigate appropriate student loan trajectories. Many survivors will likely find that their best option for getting out of student loan default is consolidation rather than rehabilitation.

D. REHABILITATION V. CONSOLIDATION

One common rehabilitation barrier is the requirement to make nine consecutive reasonable and affordable payments before borrowers can get out of student loan default. Another is that borrowers may want to get out of default as soon as possible to enroll in school (under rehabilitation one does not become eligible for new student loans until she has made six reasonable and affordable payments) or avoid a tax refund offset. While rehabilitation does have a minimal positive credit reporting impact--rehabilitation allows the tradeline to no longer be classified as adverse—the entire negative repayment history will remain on the tradeline.

The only borrowers who should consider rehabilitation are those who have direct loans and can secure a truly affordable “reasonable and affordable payment” and don’t have any need to get out of student loan default in the short term. Unfortunately, those borrowers who have already defaulted on Direct Consolidation Loans and have no new post-consolidation federal student loans cannot get another bite at the consolidation apple. Borrowers in this predicament will need to pursue rehabilitation and upon rehabilitation would be eligible for favorable repayment options, such as IBR.

E. CONSOLIDATE STUDENT LOANS ONLINE, THE FAST AND EASY WAY

Once a borrower has determined that consolidation is her best option, the borrower must gather information about her student loans from NSLDS and then complete the online student loan consolidation process by going to loanconsolidation.ed.gov. Borrowers can compile the information necessary to complete the online consolidation application by using The Student Loan Consolidation WorkSheet. Borrowers who complete the consolidation process online should have their entire consolidation process completed within three months.

F. TAKE ADVANTAGE OF INCOME BASED REPAYMENT ONCE SURVIVOR IS OUT OF DEFAULT

Once borrowers are out of student loan default, they are eligible for the government’s favorable repayment options. Survivors with little or no income will likely be eligible for Income Based Repayment, which could reduce their monthly payments to as low as \$0. The IBR is a repayment plan that caps required monthly payment at an affordable rate based on how much the survivor earns and family size. The borrower must display partial financial hardship to qualify for IBR. If the borrower qualifies, payments will be capped at no more than 15 percent of his or her discretionary income.

Best Practice: To approximate what a survivor’s monthly student loan payments would be under IBR, use the IBR calculator on the U.S. Department of Education website: <http://studentaid.ed.gov>.

Survivors would also be eligible for deferments and forbearances. Furthermore, survivors who go into Direct Loans and work in a broad range of public service jobs (basically any work for a nonprofit organization or government body) will be eligible for a discharge of their student loans if they work in public service for ten years. Those who qualify for IBR and remain in IBR for 25 years will have their student loans discharged in 25 years.

IV. THE CONSOLIDATION PROCESS

Assisting survivors begin the consolidation process while they are in shelter will dramatically improve survivors' financial security in a short period of time.

A. ADDRESSING BARRIERS

The table included below outlines the common barriers that survivors may face during the consolidation process, as well as strategies to overcome those barriers.

| COMMON BARRIERS | STRATEGIES TO SURMOUNT BARRIER |
|---|---|
| Survivor does not remember her PIN to access NSLDS. | Go to pin.ed.gov . If one has accessed NSLDS within 18 months the PIN get be reset online. Click on "Request a Duplicate PIN." Other people will need to apply for a new PIN by clicking "APPLY NOW." |
| Survivor will be leaving shelter shortly. | Survivor may use her shelter address on the online application. As part of discharge planning, contact Department of Education Borrower Services at 877-557-7392 with the updated address to ensure survivor does not miss any important mail. |
| Survivor receives requests for additional documents or other information. | Promptly comply with the request and contact Department of Education with any questions at 877-557-7392. |
| Survivor is in student loan default, has had her tax refund seized in the past, and anticipates a refund this year. | Have the survivor prepare a paper return at a VITA site during tax season. Once the survivor's loans are consolidated and no longer in default, have the survivor call the Treasury Department's Offset Hotline at 800-304-3107 to verify that there is no offset in place. Once it is confirmed that there is no existing offset, the survivor should file her return. If the survivor is due a refund, there is no requirement to file before the April 15 deadline. The survivor actually has three years from the date a year's return is due to claim a refund. That means survivors owed refunds for 2011 need not claim their refunds until as late as April 15, 2015. |

B. IMPORTANCE OF CONSOLIDATION

Although survivors may find it difficult to focus on address their student loans while contending with the emotional and financial consequences of fleeing an abusive relationship, they should not be deterred from taking this important step. Consolidating defaulted student loans is one of the most effective steps a survivor may take to improve her financial security while living in shelter. In one fell swoop, they make themselves eligible for more student loans, eliminate the risk of paycheck garnishment and income tax refund intercepts, and may even prevent further damage to their credit.

V. CONCLUSION

With an estimated \$1 trillion in student loans outstanding in the United States and as incomes continue to stagnate, some observers worry that we may be on the cusp of another bubble similar to the housing one five years ago. Domestic violence survivors face additional hurdles as defaults can seriously hamper their ability to re-establish their financial footing after they have left their abusers. Student loan defaults can slash household income, prospects for future employment and permanent housing and wreck credit files.

All can lead to a survivor's spiraling losses in resources and confidence, tempting survivors to return to their former lives with abusers. Domestic violence shelter case workers should learn how to incorporate basic student loan default management into their existing social service deliveries. By familiarizing itself with this Field Report's basic strategy and tools, the domestic violence service community can help survivors stay on the path to financial security.

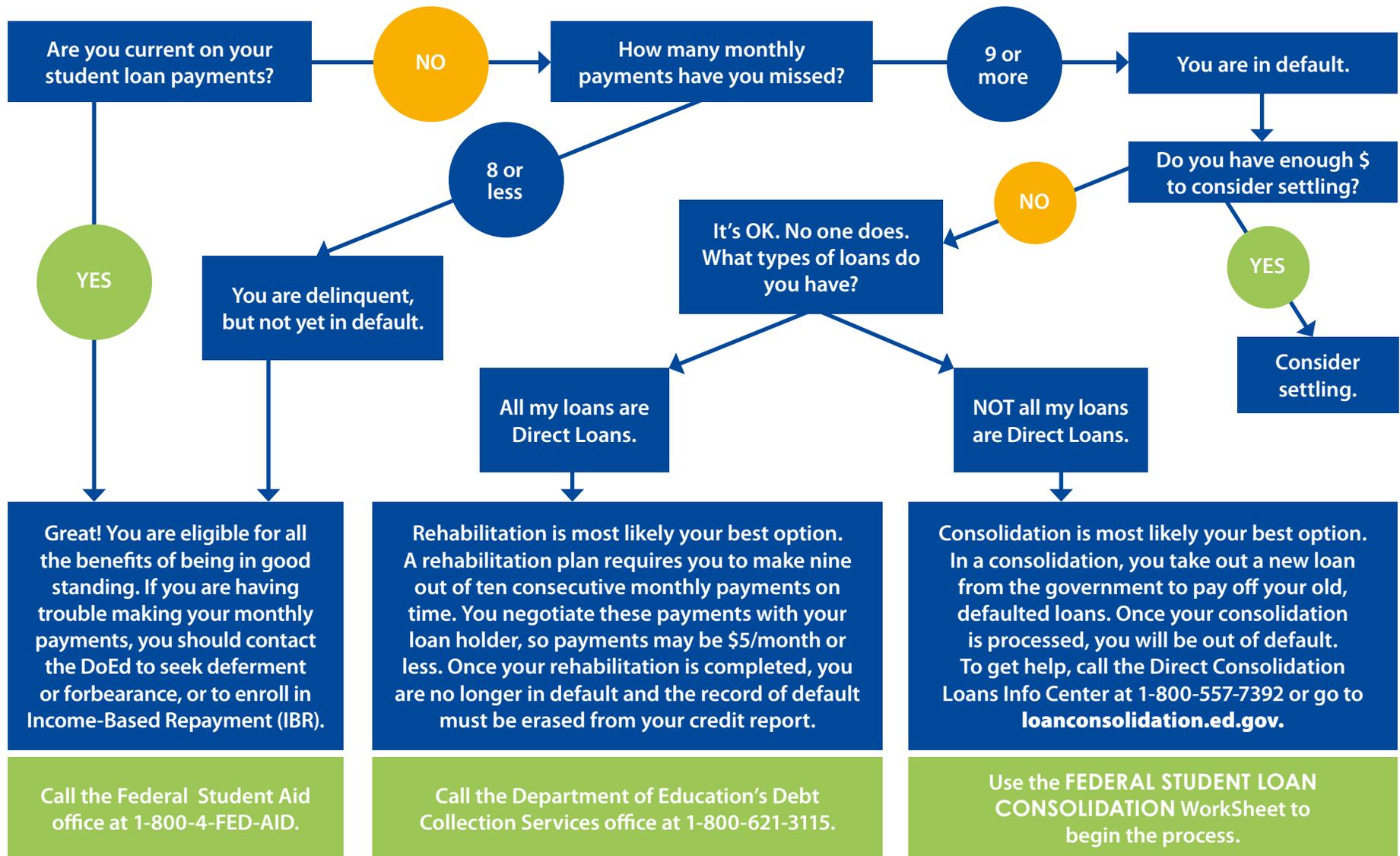
NOTES

¹ For more in-depth treatment of student loan terminology, see the Student Loans Glossary attached to this report.

² Josh Mitchell and Maya Jackson Randall, Student-Loan Debt Tops \$1 Trillion, Wall Street Journal, March 22, 2012 , available at http://online.wsj.com/article/SB10001424052702303812904577295930047604846.html?mod=googlenews_wsj.

³ Press Release, Department of Education, Default Rates Rise for Federal Student Loans (September 12, 2011), available at <http://www.ed.gov/news/press-releases/default-rates-rise-federal-student-loans>.

FEDERAL STUDENT LOAN FLOWCHART



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