



## General Revenue Corporation Presents

### *Frequently Asked Questions on Bankruptcy as of 06/2017*

**AS ALWAYS, THIS DOES NOT CONSTITUTE LEGAL ADVICE.**

**PLEASE CONSULT YOUR LEGAL COUNSEL BEFORE TAKING ACTION.**

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1. If a student borrower files bankruptcy and that debt is discharged through bankruptcy, is the school obligated to provide a transcript to the student borrower or allow them to take more classes. Are we able to refuse complying with these types of requests from student borrowers because they filed bankruptcy (19 clients asked this question)?

The bankruptcy filing and providing services to a student should be two separate processes. Providing services to a student, whether those services are classes, transcripts, registration, etc., begins with a written agreement signed by the student where the student acknowledges that: 1) he/she is financially responsible for any charges incurred or credit extended; 2) the repayment terms; 3) the conditions and consequences of default, laid out in very specific detail (which include collection fees and at what percentage, late fees or other fees attached to default, or additional legal fees if you choose to enforce the written agreement in court). Written agreement may be electronic, but to validate the debt the signature should be printable.

In this written agreement, (the third “area”), the agreement must note whether a student will lose access to services if the student defaults on the terms of the written agreement with the school. A bankruptcy filing, *on its own*, without a written agreement supporting this disclosure, would not allow a school to suspend services for a student who was otherwise in good standing. This is why GRC stresses the importance of obtaining written agreements with borrowers wherein the students accept financial responsibility.

2. Are we able to add new charges to the account even if it was discharged in bankruptcy filing (6 clients asked this question)?

If the student has incurred *new* charges incurred *after* the date of filing, you can certainly add the new charges and bill the student after the bankruptcy stay is lifted.

3. Are we able to accept payments on an account while there is an active bankruptcy; are we able to bill the student borrower based on those payments being applied to the account (6 clients asked this question)?

Please consult your legal counsel – technically, the debtor's moneys are the property of the bankruptcy estate.

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4. Are we able to communicate with a student borrower when they are in an active bankruptcy, such as asking for a payoff balance, asking for a copy of their transcript, etc. (5 clients asked this question)?

If the student has reached out to you to make inquiries regarding his or her account, you may respond solely to the inquiry or request for information, but you may not request any payment of any kind.

5. What does “scrubbing your accounts” means? (4 clients asked this question)?

This means checking accounts to see whether they are in an active bankruptcy filing status. As a matter of best practice, GRC performs this scrub for all its clients’ accounts regularly.

6. Are federal loans (Perkins) non-dischargeable and are tuition/AR debts dischargeable? If federal loans are non-dischargeable, does this mean we can continue to collect on them (4 clients asked this question)?

Federal loans such as Perkins loans are generally non-dischargeable; tuition loans and A/R credit extended directly to the student generally will be discharged because these are not federal loans (either extended or guaranteed). Even if a loan is *not* dischargeable, you may not continue to collect on it during the pendency of an active bankruptcy because the bankruptcy stay prevents any collection attempt. You must wait until the bankruptcy action has concluded.

7. When and how do you file a “Proof of Claim?” Can you request a list of creditors in the Chapter 7 bankruptcy filing (4 clients asked this question)?

You can ask your legal counsel to file this, or request a form from the Court directly after the Court informs you that you are a Creditor in the bankruptcy action.

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