

# Discharging student loans due to disability

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Learn how you may be able to get student loan payments canceled due to severe disability, and what might happen if your condition improves.

## **What kind of student loans can I get discharged?**

We discuss here how you may be excused from liability for your student loans (get your student loans **discharged**) if your loans are FFEL, Direct, Perkins, TEACH grants, or Plus (disability must be your parent's, not yours).

To learn more about whether you can get private student loans discharged (<https://library.nclc.org/article/hidden-consumer-rights-and-remedies-regarding-private-student-loans>), talk to a lawyer. Some private lenders might offer programs like the one described here.

## **When can I get my student loans discharged?**

You can qualify for complete discharge of your student loan if the Department of Education agrees that you meet their definition of having a disability. To do this, you must prove that you can't engage in any substantial gainful activity

due to physical or mental impairment that's any of these:

- Expected to last for 5 years.
- Has already lasted for at least 5 years.
- Can be expected to result in death.

Most applicants provide a statement from their doctor to prove that they have a qualifying disability. **If you're a disabled veteran**, you don't need to do this if you get VA benefits for a service-connected disability and you can give the Department of Education proof from the VA of one of these:

- You have a service-connected disability, or a disability that's 100% disabling.
- You're totally disabled based on an individual unemployability determination.

**If you get SSI or SSD**, you don't need documentation from a doctor if you give the Department of Education a copy of a Notice of Award of Benefits stating that your next scheduled disability review will be within 5 to 7 years from the date of your most recent disability determination.

## **How do I get my student loans discharged?**

You may apply online (<https://studentaid.gov/tpd-discharge/>) or print out the application form and follow the instructions for submitting it by mail or electronically.

If your doctor is submitting information in support of your application, it might be better to print out the application. The doctor must fill out part of it.

**The doctor's statement is most important.** It must fully explain both your condition and why it leaves you unable to work. **Examples:**

- Your doctor writes that you're unable to stand up to work at all and can't sit for extended periods.
- Your doctor writes that your mental disability keeps you from being able to show up regularly and routinely for work.

You must turn your application in within 90 days of your doctor signing off on it.

### **What happens after I submit my application?**

The loan holder or servicer might ask your doctor for more information. Let your doctor know about this possibility beforehand.

If the Department of Education determines that you're eligible for a discharge, it will notify you and your loan holder that they've approved your application.

### **If my application is approved, do my loans get discharged right away?**

Yes, but this may not be the end of things. The Department of Education will send your loan holder a notice that:

- Has the date of your doctor's certification or the date the Department of Education received it
- States that the loan holder must assign your loans to the Department of Education for discharge and a **3-year monitoring period**

The loan holder must refund any loan payments you made after the date of your doctor's certification or after the Department of Education got your Social Security documentation.

**The monitoring period doesn't apply to** veterans getting a discharge based on a determination that you're unemployable due to a service-connected disability.

If the Department of Education sends you an IRS Form 1099-c, Cancellation of Debt (<https://www.irs.gov/forms-pubs/about-form-1099-c>) saying they canceled your student loan debt, talk to an income tax professional. Find out if you owe any tax.

### **They denied my application. Now what?**

The Department of Education goes back to trying to collect what you owe. Your loan goes back to its former status.

Look over your loan discharge application. Make sure you completed it and gave all needed information. You should submit a revised, completed application for the Department's review if any of these are true:

- You didn't fully fill out the application.
- You left out important information.
- You have more medical proof.
- Your situation has changed.

If the Department of Education still denies your application after you re-submit it, or you submitted a fully supported and complete application in the first place, you can seek judicial review to challenge their decision. Talk to a lawyer about whether you should do this.

### **Can the Department of Education reverse the discharge?**

Yes. During the monitoring period, they will cancel the discharge and restart collection activity on your account at any time within the first 3 years after you get the discharge, if any of these are true:

- You work and earn more than 100% of the poverty limit for a family of 2.
- You get a new TEACH grant.
- You get a new federal student loan.
- You don't return any of the loan money you got pre-discharge within 120 days of getting the money.
- Social Security sends you a notice that you're no longer disabled, or that your disability review will no longer be the 5- or 7-year review period indicated in your most recent Notice of Award.

The Department of Education must first send you written notice that it plans to cancel the discharge. The notice must state all of these:

- Why they're canceling the discharge and reinstating your loan.
- How to contact them if you believe they made a mistake.
- The date that your first payment on the reinstatement of the loan is due.

### **What happens if my spouse and I consolidate our loans?**

When you consolidate your loans on your own or with a spouse, you give up rights with respect to the loans. **Get legal advice before consolidating.** Find

out how the consolidation will affect your rights. You can discharge consolidation loans only if you meet the conditions for discharge for each underlying loan.

The Department of Education may grant a loan discharge for **joint consolidation loans** (you and your spouse consolidate your student loans into one) if you both qualify for a total and permanent disability discharge. If only one of you qualifies, you may get a partial discharge.

Even if the Department of Education discharges the disabled borrower's portion of the consolidation loan, both spouses are jointly and severally liable for the balance of the consolidation loan. This means that if the non-disabled borrower defaults on the consolidation loan, the lender can go after both spouses.

## **I don't qualify for a student loan discharge. What can I do?**

Visit [www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org)

(<http://www.studentloanborrowerassistance.org>) to learn about other options, such as:

- Other loan discharges (including bankruptcy)
- Postponing repayment
- Consolidating your loans to try to get a lower monthly payment
- Income-based repayment plans

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<https://assets.washingtonlawhelp.org/en/discharging-student-loans-due-disability>