

# DAIGLE LAW OFFICE - *after hours*

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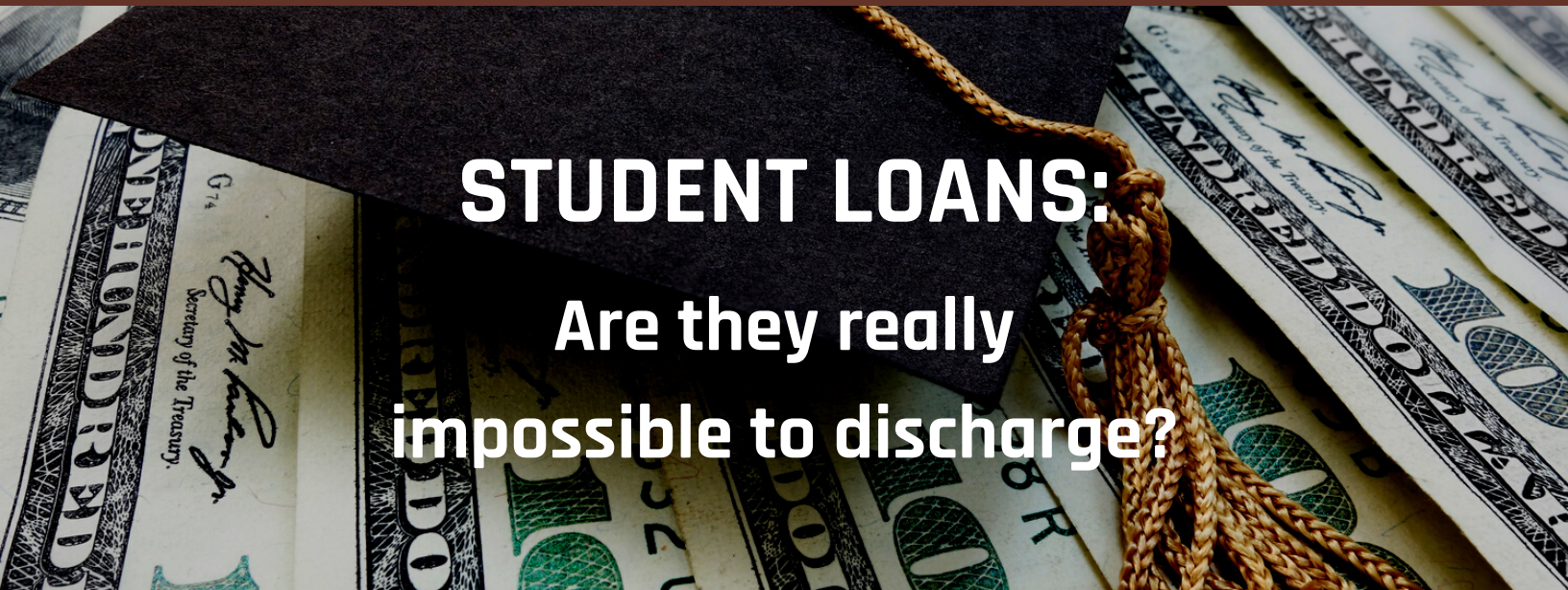
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## STUDENT LOANS: Are they really impossible to discharge?



### DAIGLE LAW OFFICE

You may have heard that student loans cannot be discharged in bankruptcy. That's not quite true. Student loans are not impossible to discharge in bankruptcy. However, they are extremely difficult to discharge. The standard used by federal bankruptcy courts for discharging student loans is that the debt will "impose an undue hardship on you and your dependents." While that seems like a reasonable standard, the definition of "undue hardship" used by most bankruptcy courts is stringent.

Bankruptcy courts generally follow the Brunner test which requires you to prove the following:

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- **Poverty.** You are unable to maintain a "minimal" standard of living for yourself and your dependents if you are required to pay your student loans.
- **Persistence.** You will probably continue to struggle financially and your inability to pay will continue for the majority of the repayment period for the student loans
- **Good faith.** You have made good faith efforts to make your payments on the loan.

Until the law catches up with the reality faced by today's heavily- indebted student loan borrowers, the *Brunner* test will be the test used by the majority of federal courts.

If your student loans are not discharged, a bankruptcy filing will provide you only with temporary protection from the collection actions taken by student loan companies. That protection

lasts for the duration of the bankruptcy unless the lender gets permission from the bankruptcy court to begin collection efforts sooner.

## HOW TO REQUEST A DISCHARGE OF YOUR STUDENT LOANS

To discharge student loans, you need to file a separate action against your student loan creditor as part of your bankruptcy. This action is called an adversary proceeding or dischargeability action. It is similar to civil litigation in that you file a complaint with the bankruptcy court and serve it on your lender. Ultimately, your case goes before a bankruptcy judge, which gives you the opportunity to prove you meet the undue hardship test and your lender the opportunity to argue that you don't. A dischargeability action can be costly and time-consuming. Most people will need help from a bankruptcy lawyer to handle it.

If you have already filed your case and it has closed, you may reopen your case at any time to request the discharge of your student loans.

## PROVING UNDUE HARDSHIP

The key to having your student loans discharged is being able to prove undue hardship. Some situations may seem like an undue hardship, but they will not meet the strict standard set by the *Brunner Test*.

### POVERTY

You must present evidence of your current income and expenses to prove that you cannot repay your loans while maintaining a "minimal standard of living." While low pay is necessary, it is not sufficient. The court will look at the reasons for your career choice, how you budget your money, and whether you attempted to work out a more affordable repayment plan with the lender. The court may conclude that you should be able to get higher-

paying work, especially if your skills are commensurate with a higher-paying career.

If you went to a fraudulent school (e.g., a nursing school that did not provide you with the coursework you needed to pass a state licensing examination), you might have a viable justification for your inability to get a better job.

### PERSISTENCE

You can prove that your financial situation is not likely to improve if you or your spouse has a serious illness or injury that limits your ability to obtain higher-paying work permanently or over the term of your loan.

A combination of advanced age and diminished earning ability provides another potentially winning circumstance. For example, if you are close to retirement and your wages are low, you will not be able to pay your student loan back before reaching retirement age. You can make a strong argument that you are trapped in poverty and will not be able to get out.

### GOOD FAITH

To meet the good faith requirement, you must have made some honest efforts to pay your loans. You are not likely to get your loans discharged if you've just graduated or if you cannot show that you have made serious and extensive efforts to find a good job and live on a reasonable budget.

The court will want to investigate whether you qualify for an income-driven repayment plan. (More on these below.) If an income-driven repayment plan is available, you will need to explain why it won't help you.

## WHAT OUTCOME CAN YOU EXPECT IF YOU PURSUE STUDENT LOAN DISCHARGE IN A BANKRUPTCY?

The bankruptcy court may reach one of three possible conclusions:

- **Full Discharge** - The court decides you have an undue hardship and discharges all of your student loans.
- **Partial Discharge** - A portion of your debt will be discharged, but you will still owe some student loans. For example, the court might discharge the private loans and not discharge the federal loans.
- **No Discharge** - The court rejects your argument and you owe the full amount of the student loans.

## HOW CHAPTER 13 CAN HELP YOU WITH STUDENT LOANS

A Chapter 13 bankruptcy is a reorganization of your debt. You repay at least a portion of your debt in monthly installments. Chapter 13 allows you to catch up on debts that you've gotten behind on. If your loans cannot be discharged, Chapter 13 will provide you with some benefit. The court will determine how much you must pay each month on your student loans, which might be a better deal for you than if the creditor were in charge of setting the payment. While the balance of your student loans will be owed after your payment plan is complete, you can try to discharge that amount as an undue hardship. Even if you are not successful, you will have managed to pay less for a three to five year period than you would have had you not filed Chapter 13.

## WHAT CAN YOU DO IF YOU CAN'T DISCHARGE YOUR STUDENT LOANS IN BANKRUPTCY?

If you can't discharge your student loans, there are other options available for making your loans more affordable.

## INCOME-DRIVEN REPAYMENT PLANS

For federal student loans, you can enter into an income-driven repayment plan. These plans put a cap on your payments based on your income and family size and offer loan forgiveness after 20 to 25 years. Most borrowers will qualify for one of the four income-driven repayment plans. Your payments may be significantly reduced, but you will pay more interest over the longer term of the loan and any amount that is forgiven after the 20 to 25-year term will usually be taxable income. You can apply for income-driven repayment at [studentloans.gov](https://studentloans.gov) or by sending your student loan servicer a paper application.

## GRADUATED REPAYMENT PLAN

With a graduated repayment plan, your federal student loan payments start low and gradually increase every two years regardless of your income. After 10 years, your loan is paid off. You'll pay more interest than under the standard 10-year repayment plan that provides for payments of the same amount each month. You must have at least \$30,000 in loans to qualify.

## EXTENDED REPAYMENT PLAN

An extended repayment plan allows you to repay your loan over a term of up to 25 years. You can opt for fixed or graduated payments. The amount of the payment does not depend on your income so an income-driven repayment plan may be cheaper if you qualify.

## LOAN CONSOLIDATION

If you have more than one federal loan and your loans have different interest rates and due dates, you may be able to replace them with a single consolidation loan. You will then have just one monthly payment to manage. Your interest rate will be a weighted average of the rates of the loans you are consolidating. Once your loans are consolidated, you may be able to reduce your payment further with an income-driven repayment plan.



## DEFERRAL AND FORBEARANCE

You might be able to defer your student loans or ask for forbearance. Deferments stop your monthly payments for a while and are usually given to people in temporary situations (unemployment, illness or injury, low income, etc.) that make it hard for them to make their payments. Forbearance can postpone your payments for up to a year, but you will have to pay the accrued interest for the period during which you were not paying. Deferred loans do not accrue interest during the deferment period.

## REFINANCE

Private loans are not eligible for the repayment plans mentioned above. You may want to investigate refinancing them to lower your payments. To refinance student loans, you take out a new loan to pay off the existing ones. The new loan should offer a lower interest rate, longer term, or both. You'll need good credit or a co-signer to qualify. You can refinance federal loans but, if you

do, you will lose the ability to qualify for income-driven loan repayment plans and some loan forgiveness and forbearance benefits.

## DISCHARGE FOR DISABLED BORROWERS

The U.S. Department of Education has a program (the Total and Permanent Disability (TPD) program for student loan borrowers who become totally and permanently disabled. If you qualify, you may be able to have your federal student loans discharged without having to file a bankruptcy. Your disability must have lasted or must be expected to last at least 60 months. Some private lenders will also consider discharging your loans in similar situations.

You have options to help with unmanageable student loans. You don't have to put yourself through a bankruptcy to get at least some relief. Given the low odds of success, you may want to first investigate these programs before turning to bankruptcy.





# How to Host a Sustainable Thanksgiving

Thanksgiving: family, food, sharing, warmth and, above all, gratitude. While the soft glow of this holiday in our collective memories may produce an undeniable feeling of comfort, the by-products of some of the aforementioned things, in their fun excess, can create one very insidious thing: waste.

This season, celebrate Thanksgiving by showing gratitude to the planet and making your holiday gathering more environmentally friendly.

## HIT THE FARMER'S MARKET FOR YOUR THANKSGIVING DINNER INGREDIENTS

Your food doesn't need to be transported from truck to truck across countless miles and with maximum emissions—this time of year, farmer's markets are rife with interesting seasonal delights that have that special touch of homemade, holiday goodness

## USE OUTDOOR FOLIAGE TO DECORATE

Dried leaves, branches, and flowers that you picked and arranged yourself not only look more authentic in wreaths and on your table, but you can also make foraging for decorations a fun new holiday tradition. Not to mention, a pre-Thanksgiving walk or hike might be a good idea before stuffing yourself.

## CONSIDER REPLACING THE TURKEY

While turkey is lower on the food chain (and therefore one of the more sustainable meat options), consider substituting the turkey with “Tofurkey” or any of the

other meat-free turkey alternatives on the market. Conversely, if this feathered staple has a special place in your heart, you may be able to pick up a locally-raised turkey on your farmer's market trip.

## USE REUSABLE DISHES AND NAPKINS

If you're hosting a large gathering, it can be tempting to whip out the paper plates and disposable napkins, but consider weighing how much waste one large family dinner produces against a bit of extra cleaning effort. You can make it fun by turning cleanup into a holiday game where everyone pitches in. And, if you have a dishwasher, you can even save water by simply scraping the food residue and loading your dishes—no rinsing necessary!

## DON'T THROW AWAY ANY LEFTOVERS

Tired of eating that leftover stuffing? You can either compost your leftovers or take them to a local shelter in need.

## DON'T PARTICIPATE IN BLACK FRIDAY

Wasteful packaging on special deals, tons of vehicles on the road all vying to make that same left turn as you—Black Friday is a recipe for disaster. This season, don't add your vehicle to the mix, and avoid buying items you may not really need.

Adopting sustainable practices is a great way to show you're thankful for your friends, family, and above all, the planet. Happy Thanksgiving!





# 19 Fun Facts About OUR NATIONAL PARKS

If you're looking for affordable family fun, any time of year, it's hard to beat our national parks. Though each national park is unique, they all share one thing in common: a staggering beauty that will challenge your (and even your teen's) capacity for wonder.

Need more motivation to get up and go? Here are 19 fun facts about our national parks:

1. There are 59 national parks spread across 29 states, from Maine to Hawaii (and the Virgin Islands!).
2. **'Yellowstone National Park** (Wyoming) is the oldest. It was formally established by President Ulysses S. Grant on March 1, 1872. The "youngest" national park is **Pinnacles National Park** (California), which was established on January 10, 2013.
3. Even though President Grant established our first national park, he does not have a national park named after him. **Theodore Roosevelt National Park** (North Dakota) is the only national park named after a president.
4. The largest national park is **Wrangell-St. Elias** (Alaska). It spans more than 8-million acres. The smallest -- **Hot Springs National Park** (Arkansas) -- covers 5,500 acres.
5. **Kobuk Valley National Park** (Alaska) is home to 100-foot tall sand dunes. During the summer months, temperatures can climb to 100 degrees.
6. **The Grand Canyon** (Arizona) is the only national park that also is regarded as one of the Seven Wonders of the Natural World.
7. In **Saguaro National Park** (Arizona), you can see saguaro cacti that are more than 40 feet tall and 200 years old.
8. **Death Valley National Park** (California) is a place of extremes and superlatives:
  - The *hottest* temperature ever recorded in North America - 134 degrees - was recorded at the aptly named Furnace Creek, in 1913;
  - It is the *driest* place in North America (with average rainfall of less than 2 inches);
  - It is the *largest* national park in the continental U.S. (3.4 million acres); and
  - It is home to Badwater Basin, the *lowest* point (282 feet below sea level) in the western hemisphere.
9. The largest tree on Earth can be found in **Sequoia National Park** (California). The General Sherman Tree reaches 275 feet into the sky. It is 36 feet in diameter at its base, and weighs more than 4 million pounds. General Sherman is estimated to be 2,300 – 2,700 years old.

10. You can see a different type of tree at **Petrified Forest National Park** (Arizona). The trees in this forest are actually tree fossils that are more than 200 million years old.

11. **Mesa Verde National Park** (Colorado) is home to Cliff Palace, part of the largest archeological preserve in the country. Mesa Verde provides a window into ancient Pueblo culture dating back to A.D. 600 to 1300.

12. NASA sent astronauts to practice lunar excursions in **Big Bend National Park** (Texas).

13. Great Basin National Park (Nevada) offers the best nighttime view of the Milky Way in the continental U.S.

14. Visit **Great Smoky Mountains National Park** (North Carolina/Tennessee) in the spring, and you will see why this park is sometimes called Wildflower National Park. (Be prepared to have company. Great Smoky Mountains was the most visited national park in 2017 and 2018, with more than 11 million visitors each year – almost double the number of visitors to the second-most visited park, the Grand Canyon.)

15. The tall spires of rock that form the striking landscape of **Bryce Canyon National Park** (Utah) are called “hoodoos.” There are more hoodoos in Bryce Canyon than anywhere else on Earth. Perhaps the most spectacular of these is Thor’s Hammer – a thin “handle” of rock, atop of which sits a large hammerhead-shaped rock.

16. **Glacier National Park** (Montana) is home to 25 active glaciers and more than 700 lakes.

17. **Everglades National Park** (Florida) is the only place on Earth that is home to both the American alligator and the American crocodile. It also is the last refuge of the endangered Florida panther.

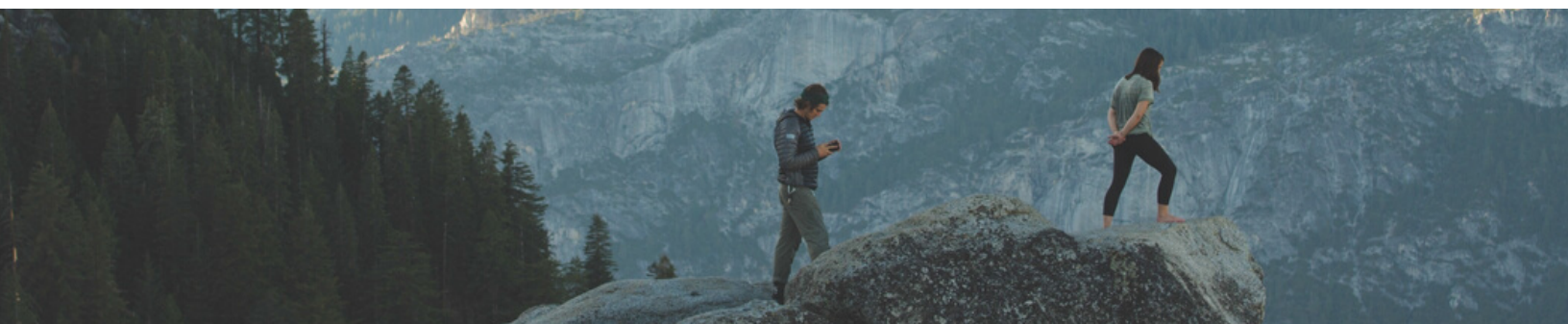
18. In the cold and damp of the Pacific Northwest, you can get lost in a rainforest in **Olympic National Park** (Washington).

19. The tallest waterfall in all of the national parks is Yosemite Falls. With a vertical drop of 2,425 feet, it is the tallest waterfall in the country. **Yosemite National Park** (California) also is home to Ribbon Falls, which is 9-times taller than Niagara Falls.

Writer and historian Wallace Stegner called the National Park System America’s “best idea.” You don’t have to spend much time in a national park to know that he was right. Whichever park you choose, bring your camera and your spirit of adventure, and you won’t be disappointed. Happy trails!

## LEARN MORE

- For more fun facts about all 59 national parks (along with stunning photos), visit: [www.washingtonpost.com/graphics/lifestyle/national-parks](http://www.washingtonpost.com/graphics/lifestyle/national-parks)
- To learn more about our national parks and to plan your visit, go to [www.nps.gov](http://www.nps.gov).



# 7 EVERYDAY WAYS

## to Increase the Security of Your Home



### UPGRADE YOUR FRONT DOOR

Your front door is the main point of access to your home, but you may never have given it much thought other than what color to paint it. For security, your front door should have:

- A solid core of wood, metal or fiberglass. If you're not sure what you have, just knock on the door. A solid door will sound solid; a hollow door will echo.
- A deadbolt, with a solid metal strike plate (the piece that is attached to the door frame where the deadbolt fits). If you are concerned that the lock and/or the strike plate is weak, you can buy a kit to reinforce both the door and the frame, for less than \$100.
- A wide-angle peephole.

### LOCK IT UP

Make it a habit to keep the doors and windows locked when you are home; to lock them when you leave; and to check that they are locked before you go to bed. Remember to lock all the doors, including the interior door that leads from the house to the garage. Help the entire family get into this habit, so you know these things will be done, even when you're not home to do them.

To prevent entry through a sliding glass door, insert a wooden dowel or metal rod into the track at the bottom of the door. Alternatively, for around \$20, you can purchase a "security bar" that serves the same purpose. Both methods will keep the door securely closed, even if the lock is compromised.

To prevent entry through the garage, keep your garage door closed at all times when you are not in the garage or nearby. Keep any side entrances locked. If your garage door has keycode access, change the code when you first move in to your home and periodically thereafter.

### LIGHT IT UP, INSIDE AND OUT

Don't let your home go dark at night. If you are going out

and you know you won't be home until after sunset, leave a light (or several lights) on in the house.

Make sure the exterior of your home is well lit at night. You know you need a porch light, but you also need lighting at the back door and around all sides of the house. Consider adding motion-sensor lights to provide extra illumination in dark corners and out-of-the-way areas that are not easily viewed from the street.

### BE A GOOD NEIGHBOR

Get to know your neighbors and keep an eye out for each other. One way to do this is to form a neighborhood watch association. Ask your local police department if an officer is available to come to your home for an informal meeting. The officer can offer tips about home security, how to recognize suspicious behavior and criminal activity, and what to do in case of an emergency.

### BRING PACKAGES IN PROMPTLY

If you are home when a package is delivered, bring it in promptly. If you are expecting a package to be delivered while you're out, ask a neighbor who is home during the day if he would mind taking the package to his house until you return.

### DON'T HIDE A KEY

Everyone knows there is a key hidden under the mat or the planter or that fake rock. Instead, give a spare set of keys to a couple of your neighbors and/or a family member who lives nearby. Do not put your name or house number on the key. Find another memorable way (e.g., a funky key chain) to identify the keys as yours.

### HANG CURTAINS

Curtains are more than just decorative. They are a means of guarding your privacy. Keep the curtains drawn, especially at night, to prevent passerby from peering into your home like a department store window.