

I am excited to share with you, a new resource for information regarding student loans, as published by the [National Consumer Law Center](#). The [Student Loan Borrower Assistance](#) portal offers answers and solutions to student loan borrowers, however, they do not provide legal advice. This issue has also attracted the attention of Congress, who recently held an [oversight hearing](#) on the matter.

Student Loans, in general, are not dischargeable in bankruptcy, absent undue hardship. 11 U.S.C. Section 523 (a)(8) provides that the debtor must show that the payment of the student loan debt will "impose an undue hardship on the debtor and the debtor's dependents." Courts have interpreted this standard very restrictively, which makes it very difficult for even the most vulnerable to receive a discharge. A recent case, [Booth v. U.S. Department of Education](#), et al., 10 CBN 1093 (Bankr. E.D. Wash. 2009) held that debtors can prove undue hardship even if their Income Contingent Repayment Loan Program (ICRP) payments are zero. The Ninth Circuit Court asked, in [Craig v. Educational Credit Management Corp.](#), 19 CBN 1039 (9th Cir. 2009), how the bankruptcy court thought the debtor could pay their student loan.

The Court will apply a three-part test, known as the [Brunner test](#), to determine whether excepting all or part of a student loan debt from discharge will impose an "undue hardship" under § 523(a)(8); [Brunner v. New York State Higher Educ. Servs. Corp.](#), 831 F.2d 395, 396 (2d Cir. 1987). Under the Brunner test, a debtor must demonstrate:

- (1) that she cannot maintain, based on current income and expenses, a "minimal" standard of living for herself and her dependents if forced to repay the loans;
- (2) that additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period of the student loans; and
- (3) that the debtor has made good faith efforts to repay the loans.

Further, the procedural difficulty level is a general deterrent for most attorneys since the debtor must affirmatively seek this determination in bankruptcy and prove her case. For more information on this subject, check out [Student Loans In Bankruptcy](#). Bankruptcy practitioners can purchase [Discharging Student Loans in Bankruptcy](#) as a resource.

<http://www.losangelesbankruptcylawmonitor.com/>