



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

STEVE CLARK
ATTORNEY GENERAL
OPINION NO. 85-116

May 28, 1985

Susan Elliott, Accounting Supervisor
Garland County Community College
No. 1 College Drive
Hot Springs, Arkansas 71913-9120

Dear Ms. Elliott:

This is in response to your request wherein you posed the following inquiry:

Whether an outstanding student loan of a former student whose debt has been discharged under the Bankruptcy Reform Act of 1978 is discharged thereunder?

For the following reasons, it is the opinion of this Office that the answer to your question is no.

Section 11 USCS § 523 (a)(8) excepts from discharge under the Bankruptcy Reform Act of 1978 the following:

(a) A discharge under section 727, 1141, or 1328(b) of this title [11 USCS § 724, 1141, or 1328(b)] does not discharge an individual debtor from any debt--

* * * * *

(8) to a governmental unit, or a nonprofit institution of higher education, for an educational loan, unless--
(A) such loan first became due before five years before the date of the filing of the petition; or
(B) excepting such debt from discharge under this paragraph will impose an undue hardship on the debtor and the debtor's dependents;

Assuming that the particular student loan in question does not meet the provisions of either (8)(A) or (B), the debt in question is not discharged and can still be collected by your institution.

This opinion, which I hereby approve, was prepared by Assistant Attorney General C. Randy McNair, III.

Sincerely,


STEVE CLARK
Attorney General

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