



3rd Annual ABLJ-ABA Symposium



Bankruptcy and Higher Education: A Marriage (Not) Made in Heaven

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What is the State of Higher Education?

Problems?

Solutions?

Moral Bankruptcy of Leadership



The Problems with Applying Chapter 11

Higher Education Act and Regulations

Denial of Access to Title IV Funds in Perpetuity

What happened to Section 525 of the Code?

Counter Legal Arguments/ Counter Conceptual Arguments



The Need for Change in Higher Education And Pathways for Getting there Now

Ask/Answer this Question:

Should Struggling Colleges/Universities
Go the Way of Buggy Whip Makers?

NO!



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Reforming the Student Loan System Through Bankruptcy

Dalié Jiménez

Professor of Law, University of California, Irvine School of Law
Associate Professor of Law, University of Connecticut School of Law



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Executory Contracts in Higher Education Bankruptcies: Issues with Tenure

Matthew A. Bruckner

Associate Professor of Law, Howard University School of Law



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Lessons for Academic Leaders from Modern Restructuring Practice

Robert K. Rasmussen

J. Thomas McCarthy Trustee Chair in Law and Political Science
University of Southern California Gould School of Law



What Chapter 11 Can and Cannot Do

Chapter 11 not a viable route for restructuring on-going education operations

Chapter 11 can be used to wind-up operations

Physical plant

Endowment

Intellectual Property

Sort out Claims of Multiple creditors

Lenders

Employees

Former students

Can the tools that have been developed in the restructuring community
work in the higher ed space?



The Modern Restructuring Toolbox

Attentive Boards of Directors

Chief Restructuring Officers

Restructuring Support Agreements



The Higher Education Landscape

Not-for-profit Schools

1909

5 million students

Public schools

1990

19.4 million students

Private for-profit schools

3,265

2.8 million students



Using the Tool Box

More engaged boards

Challenge is that these are volunteer positions

Willingness to bring in outsider to oversee restructuring efforts

Faculty would be shocked to learn that the legal power rests with the Board

Restructuring Support Agreements

Attempts to reach a negotiated solution among the interested parties

Creditors, faculty, staff

Debt restructuring

EMC