

Are School Tuition Payments Fair Game For Bankruptcy Trustees in Parents' Personal Bankruptcy?

Education Law Notes

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Parents who are forced to file for personal bankruptcy may be surprised to find that school tuition payments they made for their children years earlier could become the target of recovery by an aggressive bankruptcy trustee. The theory of recovery in such cases is found in fraudulent transfer law, where all kinds of payments can be recovered if the transferor does not receive “reasonably equivalent value” for the payment and the payments are made at a time of insolvency.

Usually, the “look-back” period for recovery of fraudulent transfers under state law is four years. A bankruptcy trustee is entitled to rely on state law as a basis for recovery of fraudulent transfers in a bankruptcy case.

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