

Report on a Study of Debtor Education in Bankruptcy*

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Summary of Results

In a sample of 7,746 Chapter 13 debtors, those who took a short, mandatory course in financial management completed their plans at a higher rate than those who did not receive education. When other local practices are also taken into account, however, it is not appropriate to conclude that there is a positive association between receiving education and completing a plan.

The completion rate for the debtors in the study who received education was 41.9 percent, while the rate for those who did not was 29.6 percent. It is also noteworthy that a majority of debtors in both groups failed to complete their plans.

Although the Chapter 13 debtors in this study who received education achieved completion at a higher rate than those who did not, these findings should be interpreted with caution in light of the many other factors that influence plan completion. It is not possible to conclude on the basis of this study that debtor education contributes to plan success. Trusteeships that provide debtor education also use other strategies that may contribute more to plan completion than debtor education does. A rough coding of local practices, described in detail below, was used to estimate statistically the relative importance of various practices. The results of multiple regression analysis suggest that use of wage orders (to have the debtors' employers pay the trustee directly) is associated with a higher rate of plan completion, while debtor education is not associated with increased completion (indeed, it is negatively associated with plan completion). This analysis also indicates that other factors not captured in the study, most obviously individual debtor characteristics, account more for variations in plan completion rates than administrative practices, including debtor education. Different attitudes in different places toward bankruptcy and debt repayment also may influence rates of plan completion.

The study included data from five Chapter 13 trusteeships, three with debtor education programs and two without them. The completion rates are for all cases filed in 1994 in the five trusteeships. Data were first gathered in July 2000, after the 1994 cases had a chance to run the maximum statutory length of five years.

Debtor education is one practice among others that Chapter 13 trustees have tried in a search for best practices. Clearly, debtor education is not essential to higher rates of plan completion. An illustration of this point is provided by the experience in Charlotte, North Carolina, which had the highest completion rate (54.9 percent) in the study, even though it does not provide debtor education. Bankruptcy officials in Charlotte use a number of other strategies that might be expected to contribute to plan completion. These include: delaying full payment of attorneys fees for three years, permitting many low percentage, five-year plans, and use of wage orders to have debtors' employers pay the trustee directly.

The three trusteeships in the study with debtor education programs had greatly varying completion rates as follows: San Antonio, Texas (54.1 percent); Greensboro, North Carolina (41.3 percent); and Fort Worth, Texas (34.4 percent). All three of these programs require debtors to take a short course (approximately two to four hours) on one day. The fifth trusteeship in the study, located in Sacramento, California, did not provide education and had a completion rate of 18.2 percent. Consistent with previous studies, this one provides more evidence that local practices and attitudes, sometimes called local legal culture, contribute to great variations in how our federal bankruptcy laws are implemented in different places.

The study also examined the operations of the debtor education programs in San Antonio, Greensboro and Fort Worth, along with the program in Columbus, Ohio (a trusteeship not included in the statistical part of the study). It is hoped that the information gathered on the content and organization of these programs, reported below, will be helpful to those who have implemented or who contemplate implementing debtor education programs in bankruptcy.

Background

In 1997, the National Bankruptcy Review Commission (“the bankruptcy commission”) recommended that, “All debtors in both Chapter 7 and in Chapter 13 should have the opportunity to participate in a financial education program.” Despite disagreements over other consumer bankruptcy issues, all nine commissioners concurred in this recommendation, which did not call for a general requirement of education for all debtors.

Several Chapter 13 trusteeships have long had debtor education courses, beginning with Greensboro in the early 1970s. There are also long-standing programs in Fort Worth and San Antonio. These three programs have a basic course that is mandatory, and they also offer either an additional course that is voluntary or some form of one-on-one counseling or credit re-establishment assistance. Another long-standing program is in Columbus, Ohio; this one is entirely voluntary and is focused on credit re-establishment as an incentive for participation.

There has been some controversy about whether the Bankruptcy Code authorizes Chapter 13 trustees to run financial education programs. Statutory support can be found in Section 1302(b)(4) of the Bankruptcy Code, providing that trustees in Chapter 13 “shall...advise, other than on legal matters, and assist the debtor in performance under the plan.” The bankruptcy commission called for more explicit authorization and for availability of programs for both Chapter 13 and Chapter 7 debtors. In recent years, the Executive Office of the US Trustees in the US Department of Justice, which oversees the operations of most trustees, has been more supportive of the Chapter 13 debtor education programs, and many more Chapter 13 trustees have started them. As of the middle of 2001, 37 Chapter 13 trustees were offering instructional programs, according to a member of the Trustees Education Network, Inc. (TEN), a nonprofit organization that has

developed a curriculum and that also offers other advice on setting up debtor education programs.

Delivery of debtor education to Chapter 7 debtors has not taken off to the same extent. Chapter 13 is administered by standing trustees who have staff and administrative offices. Chapter 7 trustees are drawn from a panel in each area, and they do not have administrative support operations, making it difficult for them to offer debtor education. A simple program implemented for Chapter 7 debtors in Nashville, Tennessee, will be briefly described below. A few other areas have programs that involve handing out self-study materials.

More than a million US households have filed in bankruptcy every year since 1996, and millions of others find themselves struggling with over-indebtedness, suggesting that lack of financial management skills is part of the problem. Congress now is considering legislation that would go a step further than the bankruptcy commission's recommendation of voluntary education for debtors in bankruptcy and require individuals to complete an instructional course in personal financial management as a condition of discharge of debts in either Chapter 7 or Chapter 13. Under the legislation, for-profit as well as nonprofit entities could provide the course and could do so either in person, on the telephone, or on line. Many persons interviewed in the course of this study questioned whether the legislation, which does not constrain credit-granting practices, neglects to treat the problem of increased over-indebtedness as a joint responsibility of debtors and creditors. Several asked, somewhat facetiously, whether creditors should have to undergo education. In any event, with growing interest in debtor education in bankruptcy and the possibility of a legislative mandate for it, this study of existing programs is timely.

Gauging Success of Debtor Education in Bankruptcy

In order to attempt to measure the success of debtor education in bankruptcy, it is necessary to define its purpose. Both the bankruptcy commission, in its 1997 report, and Congress, in the proposed legislation, treat the goal, broadly, as teaching personal financial management. The commission report adds some detail—that consumer debtors should learn to handle credit and to manage a personal or family budget, so as to re-establish their economic equilibrium and prevent repeated financial failure.

Recent empirical evidence indicates that many individual bankruptcies are preceded by job disruptions (layoffs or loss of hours, for example), uninsured medical expenses and divorce. Other individual debtors are self-employed, and if they had business management problems, these are not addressed in a personal financial management course. The bankruptcy commission recommended that education be available but not generally be required, thus implicitly recognizing that personal financial management education may not be needed by all debtors and that lack of the skills such courses teach may not have been the predominant cause or even a cause at all of some individual bankruptcies. The pending legislation, by mandating education for all individual debtors, implicitly seems to say that all need it or, perhaps, that no one would

be harmed by it. Nonetheless, debtor education is not free, and an absence of proof of benefit raises the question whether expending resources on education is justified.

It should be noted that personal financial management involves normative choices. How much should a person save? What sort of insurance should one have? What expenditures are sensible and what ones are foolish? Should some persons avoid credit entirely? If some use of credit is justifiable, should it only be used to buy a home and perhaps a car or to finance an education, but not to buy clothes and groceries and to go on vacation? Alternatively, is increased personal consumption financed by consumer credit a social good that helps to fuel our economy?

Whatever financial goals individuals have, achieving them requires skills and appropriate attitudes that lead to necessary behavior. The skills and attitudes one needs to meet financial goals go beyond financial management. For example, if one lacks the skills and attitudes to get and keep a good job with health insurance, one's financial situation will be more precarious. Success of debtor education could be gauged by testing skills or by measuring attitudes or behavior. Normative issues arise in deciding what skills, attitudes and behavior are desirable. Bankruptcy officials face these difficult questions as they implement programs and design standards and methods of evaluation for them.

This study examines completion of Chapter 13 plans. This is a behavioral gauge of successful financial management by debtors in bankruptcy. The reasons for taking this approach include that the Bankruptcy Code implicitly sets up completion of a repayment plan as a goal of Chapter 13, that data could be gathered relatively easily, and that most existing financial education in bankruptcy is for Chapter 13 debtors. We had hoped also to provide information on duration of plans and repayment achieved, but problems in our data set, discussed below, prevented this. Information on duration and repayment would provide a picture that includes partial success (but because a Chapter 13 debtor typically only gets a discharge upon completion of a plan, partial repayment might be a better description than partial success).

It also would be desirable to examine the financial condition and behavior of debtors for a period after bankruptcy, for Chapter 7 debtors as well as those in Chapter 13. A longitudinal study of this sort would be much more difficult to accomplish, and we have not attempted one.

Completion of a Chapter 13 plan is an exacting standard of personal financial management, given that most Chapter 13 debtors do not achieve it. Previous research has indicated that nationally, less than a third of Chapter 13 cases are closed as completed. To complete a Chapter 13 plan, a debtor typically has to live on a tight budget for three to five years and pay off some old unsecured debt. Many debtors also pay substantial amounts to hold on to collateral, such as homes and cars.

The lack of success in Chapter 13 raises the normative question whether completion should be made more achievable through legislative and administrative

reform. The pending legislation does not appear designed with that goal in mind. It would exclude more debtors from Chapter 7, making Chapter 13 their only bankruptcy option, and would require some Chapter 13 debtors to live on even tighter budgets than is currently the norm and to pay more for collateral such as cars. The complexity of the pending legislation makes it hard to predict its effects, but it would not be surprising if it resulted, if enacted, in higher failure rates in Chapter 13.

In contrast to the lack of congressional focus on the problem of failed Chapter 13 plans, many Chapter 13 trustees, backed up by bankruptcy judges, have attempted to improve debtors' performance. Local officials have experimented with a number of practices, discussed below, to increase plan completion. Chapter 13 has long been understood as having a rehabilitative and educational purpose. A debtor can learn financial responsibility by making a repayment plan and carrying it out, but the high non-completion rates in Chapter 13 raise the issue whether many debtors are being set up for failure. One way to increase the success rate would be to discourage debtors likely to fail from filing in Chapter 13 to begin with. But to implement such a course of action effectively, we would need more empirical studies, particularly focusing on what individual characteristics of debtors are associated with plan completion. Another way to increase plan success might involve convincing more debtors to give up collateral they cannot afford, but this would be difficult because retaining collateral such as homes and cars is often the principal goal of Chapter 13 debtors.

Existing education for Chapter 13 debtors is provided after debtors have filed in bankruptcy and submitted their repayment plans. This timing, which the proposed legislation would also adopt, means the education comes too late for debtors to use lessons learned to draw up realistic budgets and to determine what collateral they can afford, two important components of a successful Chapter 13 plan. On the other hand, instruction in tracking and trimming expenses and saving for contingencies may help debtors to live on a tight budget. Of course, it would be best if individuals learned to manage their personal finances early in life and avoided over-indebtedness. All those involved in debtor education in bankruptcy believe that they are making up for a lack of personal financial education that ought to occur much earlier, ideally at home and in high school.

The pending legislation also would require a credit counseling session, including preparation of a budget, before a debtor files in bankruptcy. Although the proposed mandatory debtor education could be provided by for-profit entities, the agencies performing the proposed required counseling would have to be nonprofit organizations. It is not clear to what extent existing credit counseling agencies would end up meeting the counseling requirement, if enacted, and how realistic the budgets prepared would be. Furthermore, under the proposed legislation some Chapter 13 debtors would have to make use of IRS expense schedules in determining how much they must pay, and many observers believe these schedules underestimate necessary expenses for many households. It would continue to be primarily the job of debtors' lawyers to counsel debtors concerning chapter choice and, in the case of choice of Chapter 13, about what

sort of plan to propose. Previous research indicates a great range in how much effort lawyers devote to counseling their debtor clients.

We had originally also planned to survey debtors concerning their perceptions of the financial management programs but this was not feasible because the trusteeships with debtor education programs that we studied were participating in a survey of debtors at the same time as this study. A prior published study of one district and regular course evaluation surveys conducted by the trusteeships in this study all suggest that debtors' reactions to the courses offered are highly positive, especially right after taking them. Debtors do not seem to find these courses objectionable; to the contrary, they usually express appreciation for them. On the other hand, it is possible that Chapter 13 debtors might register different opinions about debtor education later on, particularly after their plans fail. The pending legislation seems to contemplate that debtor surveys at the close of courses will be a sufficient gauge of effectiveness, and this promises to be an easy standard to meet. Such surveys to some extent measure a "halo" effect of good feeling and relief rather than how much debtors have learned, whether their attitudes have changed or how they are likely to behave. However, if these programs did no more than make debtors feel better, some might consider them successful.

Sample

The Chapter 13 trusteeships in Fort Worth, San Antonio and Greensboro were chosen for study because they all have longstanding debtor education programs, provided to nearly all debtors. These trusteeships also all use the same computerized accounting system, that of Chase Bankruptcy Information Systems. (Columbus, Ohio, which also has a longstanding debtor education program, was not included in the statistical part of the study because that trusteeship does not use the Chase system.) Chase system computer files were the source of our data, retrieved by computer search. Because Chapter 13 cases typically involve three- to five-year plans of repayment, we decided to gather information on cases filed in 1994 in order to have a set of cases that had run their full course by the time of data collection in July 2000. We gathered data from the computer files on all cases filed in 1994 and also on all cases filed in the second half of 1997. Many of the 1997 cases remained active at the time of collection; therefore we have not attempted to report completion data for the 1997 cases.

For control locations, we sought to identify trusteeships that also use the Chase accounting system and that are situated in areas with some demographic similarities to the locations of the other three trusteeships but in which no debtor education was provided. Because the Chase files do not include demographic information on debtors, we could only make a rough demographic match of locations. We looked for trusteeships in Metropolitan Statistical Areas (MSAs) with similar population size and median income (according to US Census Bureau statistics). The locations of the two control trusteeships, Sacramento and Charlotte, match on these two demographic variables with, respectively, Fort Worth and Greensboro. Neither Sacramento nor Charlotte offered debtor education during the years studied; Sacramento added a program in the summer of 2000. We did

not find a usable match for San Antonio. The table below shows the relevant demographic information.

Demographic Information on Locations

Trusteeship	1990 MSA Pop.	1989 Median MSA Income
Fort Worth	1,361,034	14,845
Sacramento	1,340,010	15,570
Greensboro	1,050,304	14,454
Charlotte	1,162,093	14,611
San Antonio	1,324,747	11,828

All five trusteeships provided information from current files. In addition, three trusteeships that had conducted purges of closed cases also provided information from purged files. The purged files included information about the dates of the bankruptcy filing, first meeting of creditors, debtor education class, and case closing, and codes indicating the reasons for the case closures (for example, dismissed, converted to Chapter 7, or plan completed), but no payment information. The current files included the same information in the purged files and in addition details about plan amounts, secured, priority, and unsecured claims, attorney and trustee fees, and amounts disbursed by the trustees to creditors during the plan. All of the records from the relevant time periods in San Antonio and Greensboro were still in current files, while Sacramento, Charlotte, and Fort Worth provided both current and purged files. The purged files were for 1994 cases that had been closed in the first few years and that thus typically lasted a shorter time and were less likely to be completed than the non-purged cases. This caused limitations in the payment data collected from only non-purged files. Also, problems in the database structure made it hard to determine duration or repayment. The database problems involved use of unrestricted fields. For example, dates were variously entered as September 25, 1996, Sept. 25, 1996, or 9/25/96. We had hoped to be able to report information on duration of plans and on repayment made, as partial indicators of success in Chapter 13, but for a number of technical reasons, including corruption of some data in transmission, we were not able to do so.

In April 2001, we learned that 60 cases from the Sacramento trusteeship included in the study had been transferred from that trusteeship to a second Sacramento trusteeship newly created in March of 1999. We then retrieved information on the further progress of those cases and included them in our completion rates, increasing the Sacramento completion rate to 18.2 percent (from the 15.57 percent rate we reported in an April, 2001, version of this report). Also, careful review of data from other cities has led to some adjustments in other information reported in April, particularly the completion rate in Fort Worth (which also has gone up as a result). The data in this report supersedes the data tentatively reported in April.

Completion information from a total of 7,746 cases filed in 1994 in the five trusteeships was collected and analyzed.* The number of 1994 cases received from each trusteeship is presented in the table below.

Cases by Year and City

City	1994 Filings
Fort Worth	2283
Sacramento	1977
Greensboro	1143
Charlotte	891
San Antonio	1452
Total	7746

Nearly all the individuals who filed in San Antonio, Fort Worth, and Greensboro participated in education programs, while the debtors in Sacramento and Charlotte did not receive any instruction. The nature of the content of the education programs is discussed separately below. The three education programs studied are very similar due to collaboration among these trusteeships on developing curricular materials. More of the sample came from cities with debtor education; 4,878 cases were in this category, while 2,868 cases came from cities without debtor education.

The sample comes disproportionately from states where higher percentages of cases are filed in Chapter 13 than is the case nationally. Four of the trusteeships studied, Fort Worth, San Antonio, Greensboro and Charlotte, are in states where higher percentages of bankruptcy cases are filed in Chapter 13 than the national average, while the fifth trusteeship, Sacramento, is in a state where Chapter 13 is used less than the national average. (As of 1994, 30% of bankruptcy filings nationally were in Chapter 13. The same percentages for the three states represented in this study were: 48.3% in Texas, 62.3% in North Carolina, and 20.3% in California.) Also, three of the five trusteeships (Charlotte, San Antonio, and Greensboro) have unusually high completion rates compared to the approximate national completion rate of 31 percent. Fort Worth's rate is slightly above the national rate, and Sacramento's is significantly below.

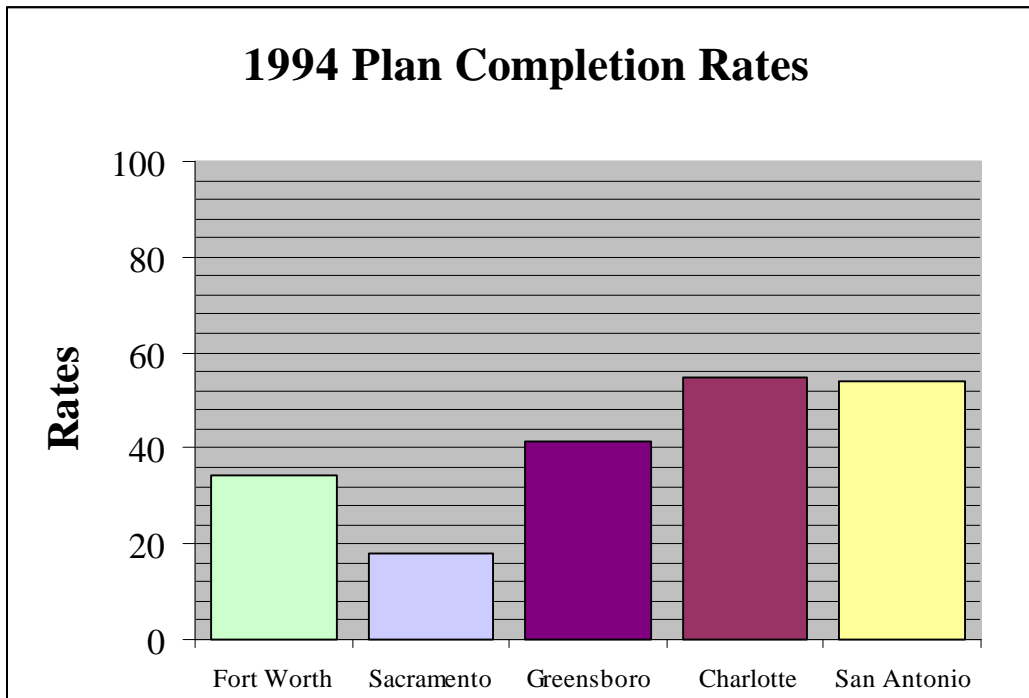
* In addition to data from the five trusteeships included in the analysis, data were gathered from trusteeships in Nashville, Tenn., Phoenix, Ariz., and from another trusteeship in Sacramento (the trusteeship in the study is that of Chapter 13 Trustee Lawrence J. Loheit). After receiving the files, it was determined that the data from Phoenix and one Sacramento trusteeship were corrupted and could not be used. It was also determined that Nashville had not provided information about all cases filed during the specified time periods (purged cases were not provided); as a result Nashville was also excluded from the analyses.

Results Concerning Plan Completion Rates

The 1994 plan completion rates for the trusteeships are listed below.

1994 Plan Completion Rates

City	No. of Cases	Rate (%)
Fort Worth	2283	34.4
Sacramento	1977	18.2
Greensboro	1143	41.3
Charlotte	891	54.9
San Antonio	1452	54.1
Total	7746	



The debtors in trusteeships that provided education had a completion rate of 41.9%, while those in trusteeships that did not provided education had a completion rate of 29.6%. These are true completion rates; completion rates are sometimes reported as a percentage of cases closed in a given a year, but such figures are distorted by, among other factors, changes in volume of filings from year to year. As will be discussed in the next two sections, analysis of other local practices suggests that factors other than debtor education account for the differences in plan completion rates found in the five trusteeships studied.

Local Practices Likely to Affect Completion

We identified local practices, other than debtor education, that might be expected to affect completion rates. The practices we examined were: amount of attorneys fees usually paid in each location and timing of payment of fees, easy acceptance of low percentage plans, use of longer plans to keep payments low, use of moratoriums to get debtors through income disruptions of a few months, use of wage orders (to have employers make direct payment to the trustee), and inclusion of regular mortgage payments (and not just arrearages) in plans. The Chapter 13 trustee in each city was interviewed about these practices, in effect in 1994.

Going rates for attorney fees in each city are a product both of market forces and of local practices adopted by judges, sometimes at the recommendation of Chapter 13 trustees, about what fee amounts will be allowed without special application by counsel. From highest to lowest, the total Chapter 13 attorneys fees typical in 1994 in the five cities (allowed without special application) were as follows (with completion rates indicated in parentheses):

Typical 1994 Attorneys Fees (With City Completion Rate)

City	Fee	Completion Rate (%)
Fort Worth	\$1500	(34.4)
Sacramento	\$1750	(18.2)
Greensboro	\$900	(41.3)
Charlotte	\$1000	(54.9)
San Antonio	\$1700	(54.1)

In cities with higher fees, lawyers might be expected to be more likely to encourage clients to file in Chapter 13 even when a repayment plan is not feasible, depressing completion rates. On the other hand, when fees are higher, lawyers may be willing to take more time per case and do a better job of counseling.

If attorneys are paid early in plans, this might lead them to encourage Chapter 13 filings without sufficient concern for whether plans would likely last long enough to be completed. Sacramento, the city with the lowest completion rate, was the only city where a substantial down payment on fees at the outset (typically \$750 in 1994) was common. Charlotte, the city with the highest completion rate, was the only city that routinely paid fees in the plan over a period of more than a year and a half; fees in Charlotte were typically not paid in full until three years into a plan. Delayed payment gives attorneys

an incentive to fashion plans capable of lasting longer. In setting payment policies, however, some judges and Chapter 13 trustees, out of commitment to promoting use of Chapter 13, also take into account giving attorneys an incentive to bring cases in that chapter, and higher fees paid early in the plan serve that purpose.

Four other practices were identified that might make completion more likely:

- Routine use of low percentage plans (defined here as less than 25 percent repayment proposed to unsecured creditors), facilitated by local judicial and trustee acceptance, might be expected to correlate with higher completion rates because lower payment is easier to accomplish. On the other hand, some trustees stress that a livable budget is the key, and that a good rate of completion of higher percentage plans is achievable so long as budgets are kept reasonable.
- Longer plans let debtors spread out payments over a longer period, also making completion easier. Longer plans make it easier to keep budgets reasonable and are particularly attractive to debtors seeking to make substantial payments necessary to keep collateral. On the other hand, longer plans pose more risk of income disruptions or increased expenses that can prevent completion or make it more difficult.
- Payment moratoriums allow debtors to get through income disruptions of several months without a formal modification, dismissal or conversion to Chapter 7. On the other hand, moratoriums may either come too late to do any good in rescuing a plan or may encourage payment defaults that get debtors into trouble. Alternatively, plans may be too ambitious for moratoriums to be able to save them.
- Use of wage orders, where debtors' employers pay the trustee directly, reduces opportunity for debtors to default on making plan payments. One city, Greensboro, combines routine use of wage orders with having regular mortgage payments made through the plan in any case where the debtor was in default on the mortgage loan at the time of filing. The other cities include only the mortgage arrearage in the plan. Making all mortgage payments through the plan reduces the debtor's opportunity to default on the mortgage and thus reduces motions to lift stay, which can lead to termination of plans. On the other hand, this practice increases trustee fees.

The “yes” positions on the four practices listed below were those we expected to correlate with a higher completion rate. As will be discussed, we were wrong in some of our predictions.

Use of Practices That Might Cause Higher Completion

City	Low % Plans Routinely Confirmed	5-Year Plans Routinely Confirmed	Moratoriums Used	Wage Orders Used	Completion Rate (%)
Fort Worth	Yes	Yes	No	No	34.4
Sacramento	No	Yes	Yes	No	18.2
Greensboro	No	Yes	Yes	Yes, routinely	41.3
Charlotte	Yes	Yes	Yes	Yes, on default	54.9
San Antonio	No	Yes	Yes	Yes, routinely	54.1

In all five cities, five-year plans are routinely confirmed. Most debtors in all of the cities other than Greensboro need five-year plans to be able to propose to pay secured and priority debts as well as some portion of unsecured debts, although in Greensboro the plan lengths are more often 42-45 months. Differences in proposed plan length do not appear to be a significant factor in explaining the different results in these five cities, because five-year plans are readily permitted in all of them.

Interestingly, Charlotte, with the highest completion rate but no debtor education, adopted all of the other strategies that might be expected to increase completion. It had relatively low attorneys fees and delayed full payment to attorneys for three years, largely eliminating any incentive for attorneys to steer clients into Chapter 13 plans, particularly unsustainable ones. It also permitted many low percentage, five-year plans. It used wage orders, although less aggressively than two of the other cities. Charlotte used wage orders only after a default on a plan payment (so that about one-third of its caseload was on wage orders), whereas San Antonio and Greensboro required wage orders from the outset unless the debtor successfully moved for an exception (most commonly, where the debtor was self-employed). The three cities that used wage orders had the three highest rates of completion. Fort Worth has since begun using wage orders as an option from the outset and requires them after plan default, but Sacramento continued not to use them at all. Policy objections to wage orders include that they interfere with the debtor’s employment relationship, risking negatively affecting the employer’s opinion of the debtor, and that they do not require the debtor to take responsibility for making payment. On the other hand, wage orders appear to increase plan completion and are a relatively cheap practice to implement, particularly in comparison to debtor education.

The trustees in all five cities reported some easing of percentages of repayment expected in recent years, in response to debtors’ higher debt burdens in relation to income. Judges, who confirm plans, and Chapter 13 trustees, who make recommendations concerning confirmation, can use the highly discretionary “good faith”

test for confirmation to press for higher repayment than other statutory tests require. (Other tests include paying creditors at least their liquidation shares and committing all disposable income for three years.) San Antonio and Greensboro continued to resist low percentage plans (that pay unsecured creditors under 25 percent). In these two cities as of 1994, most plans were for over 50 percent repayment to unsecured creditors. In Fort Worth and Charlotte, most plans were for less than 25 percent, and in Sacramento plans were averaging 35 to 40 percent. Interestingly, despite greater pressure for higher percentage plans in San Antonio and Greensboro, these two trusteeships had the second and third highest completion rates in the study. Fort Worth and Charlotte, where lower repayment was more easily accepted, had greatly varying completion rates (Charlotte's completion rate was 20 percentage points higher than Fort Worth's). Sacramento, in an intermediate position among the five trusteeships as far as its repayment expectations, had the lowest completion rate. In short, there is no apparent pattern of connection between repayment norms and completion rates in these trusteeships.

Statistical Analysis of Local Practices

Multiple regression analysis* was performed to attempt to isolate effects on completion of four practices. The practices included in this analysis were use of education, typical amount of attorneys fees, use of moratoriums, and use of wage orders. We did not include in the analysis routine confirmation of five-year plans, because all of the trusteeships followed this practice, and we eliminated routine use of low percentage plans from the analysis because an effect from this practice could not be isolated from effects of other practices.

For attorneys fees, all cases from each trusteeship were coded with the typical fee paid in that location. Although in fact a range of fees is paid in each trusteeship, the rough coding used is defensible on the ground that most attorneys in each location are paid the typical fee or a fee close to the typical one. The other three practices were coded in binary fashion for all cases in the trusteeship, with a 1 for use of the practice and 0 for non-use. This form of coding is most defensible for debtor education, in that none of the 1994 debtors in Sacramento or Charlotte received education and nearly all in the other three cities did receive education. Also, the education in those three cities, Greensboro, San Antonio and Fort Worth, was fairly similar both in content and in length of the classes, as will be described below. For the other two practices, moratoriums and wage orders, coding all cases in the trusteeship in the same way is more questionable. In the case of wage orders in Charlotte and moratoriums in all the cities that used them, we coded all cases from a trusteeship for a practice even though we knew the practice was used in only a minority of cases. This coding can be defended as representing ready availability of the practice in each case, when perceived to be needed. Obviously, this

* A multiple regression using Type 1 sums of squares was run using PROC REG in SAS. The specific model tested was also run in a logistic model (PROC LOGISTIC) and a categorical modeling procedure (PROC CATMOD) in SAS. All results were almost identical so we chose to report the multiple regression due to the complexity of explaining the other models to a non-technical audience. Contact the author for further details about the statistical analysis.

coding is crude; we did not have information on the actual practice used in the individual cases.

We stress that the regression analysis only produces estimates and may under- or over-estimate the effects of practices. The results are reported principally as a caution not to interpret the higher completion rate among debtors who received education, compared to those who did not receive education, as caused by the education.

The regression analysis indicated the following effects on completion:

Practice	Percentage Effect
Attorneys fees (effect from lowest to highest fee charged)	10%
Education	-12%
Wage Orders	50%
Moratoriums	-30%
Likely completion rate without other variables	22%

The analysis showed an increase of 1.6 percent in completion for each \$100 of attorneys fees, for a total positive effect from lowest to highest fee charged of 10 percent.

Education resulted in a small, significant and negative effect on completion rates. The other effects, positive and negative, are also all significant. The attorneys fees and moratorium effects are contrary to our predictions; we expected higher fees to be associated with decreased completion and use of moratoriums to be associated with increased completion. As noted above, possible explanations are that higher fees may lead to better counseling, instead of an incentive to attorneys to promote Chapter 13 even when not feasible, and that moratoriums may have little ability to avoid plan failure because they are used too late or plans are too unrealistic to be saved.

This statistical analysis provides only approximate estimates of the effect of each practice on completion. The noted associations between local practices and plan completion are rough, but the regression analysis provides an important perspective that the higher completion rates in trusteeships with education may be due to factors other than education. When only wage orders are considered, there is an even stronger association between use of wage orders and completion. The completion rate among debtors in the trusteeships that used wage orders was much greater than in trusteeships that did not (50.1 percent to 26.9 percent), whereas trusteeships with education had a completion rate of 41.9, compared to 29.6 for those without education. This greater spread in completion rates between trusteeships that did and did not use wage orders is one example of why, when multiple regression analysis is used, education is associated with lower completion.

Although the regression analysis suggests that education is negatively associated with plan completion, it would not be appropriate to conclude that education actually causes lower completion rates. The regression analysis merely estimates effects, and in

light of this fact, it may be that education has no effect one way or the other. Alternatively, the negative association between education and completion may involve education standing in as a proxy for other characteristics that cause a decrease in completion of plans in the trusteeships with education. Possible examples of such characteristics are lower income and higher debt among the debtors in those trusteeships. We have no information on those characteristics of the debtor population in each location. Education may help some debtors but not others. Also, a different educational format (for example, a longer program, with more opportunity for hands-on activities and feedback) might have a positive effect not shown here.

Finally, the regression analysis only accounted for a small amount of the variance in completion ($R^2=.08$). Relevant variables such as individual debtor characteristics that could affect income and expenses over the course of the plan may predict completion rates far better than this analysis, which explains less than 10 percent of the variance. This means that on the basis of the four administrative practices analyzed, including education, we are not able to predict well future completion rates or to explain well existing completion rates. Other factors account for most of the variance in completion.

Description of the Debtor Education Programs

History, Timing and Enforcement of the Course Requirement.

The three trusteeships in the study that provide mandatory debtor education, Greensboro, Fort Worth and San Antonio, are all participants in the Trustees Education Network, Inc. (TEN), a nonprofit organization dedicated to promoting debtor education and providing support to Chapter 13 trusteeships that offer it. As a result of their cooperative efforts over some years, these three programs have many similarities. Although at one time each program developed its own course materials, all three now use the same workbooks, covering “practical money skills” and “the basics of Chapter 13.” The publication and production of the books were funded by a grant from VISA, U.S.A., which also supplies materials to Chapter 7 trustees and nonbankruptcy programs.

The development of the workbooks was a cooperative effort among Chapter 13 trustees who had existing programs. Only parts of the workbooks can be covered in classes of two to four hours; debtors are given the books to take home. TEN now supplies the workbooks to a number of other Chapter 13 trusteeships.

The first debtor education program was started in Greensboro, N.C., in the early 1970s at the urging of Judge Rufus Reynolds. The current instructor there has been teaching in the Greensboro program since 1981. The programs in San Antonio and Fort Worth began, respectively, in 1979 and 1984. Considerable experimentation in course design has occurred over the years in all three places. At one time, for example, Fort Worth had a five-day program, two of the days being mandatory and three additional days being optional. Fort Worth now has a mandatory one-day program, including the 341 meeting, but also offers an optional two-hour class on budgeting, taken by a small percentage of debtors (less than 15 percent).

Debtor education is required in all three cities. Virtually all debtors attend, although the means of accomplishing this result vary. The mandatory nature of the programs has been accepted by the local debtor bar in each city. In San Antonio and Fort Worth, the programs are conducted on the day of the first meeting of creditors (usually an examination by the trustee or a staff person without creditors actually appearing). This meeting is known as a 341 meeting because it is required under Section 341 of the Bankruptcy Code. In San Antonio, the course runs for three hours in the morning, with a 15-minute break in the middle, and then 341 meetings are conducted in the afternoon. The trustee does not conduct a debtor's 341 meeting unless that debtor went to the class.

In Fort Worth, debtors are told to come for the full day. There is a half hour opening message from the trustee in the morning, followed by a period when debtors are called for their 341 meetings. While not in their meetings, debtors watch a half-hour video (on the Chapter 13 process) and for the rest of the time, they can either engage in self-study using the program workbook or sit quietly. The educational program continues for three and a half hours in the afternoon (for a total of four hours of educational program, including the video but not the opening message by the trustee or the self-study time). Debtors in Fort Worth must take the course to obtain the trustee's recommendation for confirmation.

In Greensboro, the course is not conducted on the day of the 341 meeting. It is sometimes taken before that day and sometimes after. The class runs for two hours (condensed from two separate two-hour classes given in the past), and debtors have the option of attending in the morning or in the evening. Judge Reynolds established the mandatory nature of the program in its early days by issuing contempt notices to debtors who did not show up. Debtors in Greensboro all have an interview with a Chapter 13 trustee staff person before their 341 meetings, and they are told then that they must go to the class.

Although holding the class on the same day as the 341 meeting is convenient for debtors, some instructors note a tradeoff as far as debtors' ability to concentrate. That day is a stressful one for debtors because they are called for examination about their repayment plans, and it may not be the best time to get them to focus on learning personal financial management skills.

Content of Courses.

The content of the programs varies somewhat from place to place but overall is quite similar. The programs range in length from two to four hours. The content in all three places includes a combination of how-to skills and motivational material.

All three programs include material on tracking expenses by writing down every expense for a month and then looking for places to cut (a standard personal financial management technique known as "tracking and trimming"). They also all encourage participants to trim enough to start saving immediately to deal with unexpected expenses.

Instructors stress the principle that you should, “Pay yourself first,” by setting aside something from every paycheck for savings. Instructors give examples of expenses to save (Starbucks coffee, eating lunch out, video rentals). They use stories from their own lives to establish rapport and speak of problems and strategies in the first person plural. They introduce the concept of needs as opposed to wants and discuss advertising and sales techniques that encourage us to buy what we don’t need.

The programs also discuss setting financial goals. One program stresses retirement planning. Another focuses on the goal of trying to save your home in Chapter 13, and in that program, the instructor recommends a motivational technique. She urges debtors with that goal, “Make six copies of a photograph of your home and put them up in your bathroom, kitchen, car, workplace and two other places where you’ll see them, to remind you why you are on a budget.”

Another topic is “money messages,” which includes thinking about good and bad money lessons we learned while growing up, about ways we may use money unwisely to show love or anger or to cheer ourselves up, and about different attitudes toward money within a family that cause budget difficulties. Part of the session is devoted to encouraging participants to think about what their values are compared to their spending habits and about whether they are spending money consistently with their values. One instructor asked participants to imagine that they have only a year to live and write down what they would want to do in that time; she then asked them to think about whether they are spending their money on the things they really care about.

Goals of the Programs.

All of the trustees and their instructors articulate a goal of setting up good rapport between debtors and the trustee’s office in order to motivate debtors to have greater commitment to staying in Chapter 13. One trusteeship calls its program a “Chapter 13 Orientation,” an accurate description. All of these programs emphasize explaining the Chapter 13 process and what it takes to stay in Chapter 13. Consistent with the goal of good rapport, the programs avoid blaming or shaming and treat debtors sympathetically and with respect. An instructor explained, “It’s like in credit, those who are more humane get paid.” The programs also seek to teach the basics of personal financial management and do so by emphasizing both budgeting skills and getting motivated to succeed by having financial goals. (For example, one instructor introduces the motivational theme by saying, “Let’s get fired up.”) The trustees and instructors congratulate the debtors on taking responsibility by filing in Chapter 13.

Instructors, Expenses and Evaluation.

The backgrounds of the instructors include teaching, social work, credit counseling, and legal representation of debtors. Some programs use trustee staff members as instructors, while others use contract workers, for example from a local nonprofit consumer credit counseling agency, and guests (such as an IRS staff person who spoke about tax claims and tax refunds).

In addition to instructors, the expenses of a program include leasing space (although cheaper alternatives such as using schools, churches and the like have been tried in the past), equipment to show videos, and copying handouts. VISA, U.S.A., has donated workbooks used in these programs. As an example of expenses, San Antonio budgeted \$40,000 in 1999, not including salaries; \$23,500 of that went for leased space, also used for 341 meetings. San Antonio in addition has a fulltime financial education director who teaches the class and runs the program. None of the three programs charges debtors a fee for the course, although of course debtors pay trustee fees in their plans.

In keeping with the goal of establishing good rapport, all the programs have used evaluation forms to get feedback from participants, and they have adapted the programs to respond to criticisms. All the programs report that they get very good evaluations on these forms. Debtors say that they wish they had had such programs in high school and that the programs make them feel more hopeful. They appreciate being treated with respect and given a sense of positive purpose.

All the trusteeships studied that have education programs have a significant commitment to financial education as part of rehabilitation in Chapter 13. They have started programs without a legal mandate and maintained them in some cases in the face of US trustee resistance to approval of their education budgets. With less commitment, it may be difficult to replicate the quality of these programs elsewhere.

Purely Voluntary Program in Columbus, Ohio.

The program offered by the Chapter 13 trustee in Columbus, Ohio, is voluntary and more extensive. It is called the “consumer education seminar,” with four two-hour classes spread over a period of four months. Between classes, debtors are given a chance to track expenses, prepare budgets, submit them for comments to the instructor, and then revise them. Approximately 35 to 40 debtors take the course in any four-month period, a small percentage of the Chapter 13 caseload. They have a choice of attending on Saturday mornings or Wednesday evenings. The program is offered to debtors when they are two years from the end of their Chapter 13 plans. Anyone still in Chapter 13 at that time is given the option to attend.

The topics are similar to those covered in the other Chapter 13 programs and include the Chapter 13 process, setting goals and priorities, credit reports and rebuilding credit, budgeting, saving, being a smart shopper, and wise use of credit. With more time, more detail is given and there are many more handouts and exercises. Debtors are given assignments between classes. There are speakers at each session, including representatives of the Ohio State University extension center and the Ohio Attorney General’s consumer protection division. At the last session, three creditor representatives talk about the debtors’ chances of getting credit again and how to improve them and about using credit wisely. The credit institutions represented are mortgage companies, banks and credit unions, with subprime lenders specifically excluded.

Overall, the Columbus program has a goal of teaching personal financial management to prepare debtors for credit re-establishment and wise use of credit in the future. With its later timing, this program focuses less than the other programs on establishing a good rapport between debtors and the trustee's office. The program does have the benefit to the Chapter 13 trusteeship of giving debtors' lawyers something to tell their clients at the outset about the benefits of Chapter 13--that debtors will have an opportunity to learn to rebuild their credit. The focus on the intermediate goal of re-establishing credit is not to the exclusion of long-term debtor goals such as putting children through college and saving for retirement.

Issues in Implementing Debtor Education, Particularly in Chapter 7

Chapter 7 trustees, drawn from local panels, generally lack resources to pay for debtor education. Unlike Chapter 13 standing trustees, they do not have administrative offices and support staffs. Most Chapter 7 cases earn a panel trustee a flat fee of \$60, because there are no assets to distribute. Chapter 7 trustees receive percentage fees from distributions in only a small number of cases. Also, Chapter 7 distributions are made from liquidation of nonexempt assets, not from future income, so even in asset cases, Chapter 7 trustees have no financial incentive to have debtors learn financial management. Chapter 13 trustees potentially have this incentive because they get their fees as a percentage of disbursements to creditors from plan payments made by debtors, but the Chapter 13 trustees studied and most others nationally are able to cover the costs of their operations with fees set well below the statutory maximum.* Rather, Chapter 13 trustees have experimented with debtor education in a search for practices that will increase plan success.

A simple program for Chapter 7 debtors has been implemented in Nashville, Tennessee, by Robert H. Waldschmidt, a Chapter 7 panel trustee who is past president of the National Association of Bankruptcy Trustees (an association of Chapter 7 trustees) and also a director of the Trustees Educational Network, Inc. (TEN). In this program, begun in 1999, debtors are shown two videos at their 341 meetings, but there is no live instructor. One video is on the Chapter 7 process and is shown before the 341 meetings begin, and another on money management is shown while debtors wait to be called for their meetings. Each video is about 20 minutes long. Debtors also are given a workbook, which they can take home. The videos and workbooks have been supplied by VISA, U.S.A. Survey responses from participating debtors have been highly positive. The US trustee has the space to allow this program, which involves having a second room in which to show a video while 341 meetings are in progress. Otherwise, both videos would have to be shown before the 341 meetings begin. Waldschmidt said a program like that offered to Chapter 13 debtors in Fort Worth, San Antonio and Greensboro could be given to Chapter 7 debtors if each one was charged about \$20 to attend.

* Although Chapter 13 trustee fees are capped at 10 percent of plan disbursements under 28 U.S.C. section 586(e), most trustees, including those in this study, charge less because they can fund necessary expenses of their operations with less. The individual compensation to Chapter 13 trustees is also capped by the same provision, so the trustees do not receive more personal income by collecting more fees.

Because Chapter 13 trustees' operations are paid for with fees taken from distributions to Chapter 13 creditors, for whom the trustees are fiduciaries, it would not be appropriate for Chapter 13 trustees to pay for education for Chapter 7 debtors. Furthermore, the Chapter 13 trustees who run education programs and their instructors do not think debtors who filed in Chapter 7 should be in the same classes with Chapter 13 debtors. In their view, a repayment plan in Chapter 13 is inherently educational, while Chapter 7 lacks that character. "It's like liposuction—you get a result without changing your habits or taking responsibility," explained an instructor. Another instructor said that Chapter 13 debtors would feel bad sitting in class next to a person who is getting a fresh start quickly and probably getting new credit immediately. One instructor said it would be possible, although not ideal, to have a combined class on money management, with a separate class for each group of debtors on the process in Chapter 7 or Chapter 13.

All the Chapter 13 trustees and instructors interviewed in this study think Chapter 7 debtors do need education, perhaps more than Chapter 13 debtors, because Chapter 7 debtors will get offered credit more quickly and will not be able to file in Chapter 7 again for six years. In contrast, Chapter 13 debtors who are unable to complete their plans can convert to Chapter 7 or file in Chapter 7 after a dismissal in Chapter 13.

The pending legislation contemplates that debtor education could be offered over the telephone or the Internet and by for-profit entities, so commercial delivery systems may arise in various formats if a legal mandate creates demand. More non-profit organizations may begin offering debtor education. In addition to TEN, another existing nonprofit is the Coalition for Consumer Bankruptcy Debtor Education, which has been working on a pilot program for both Chapter 13 and Chapter 7 debtors.

Suggestions for Further Research

A great deal of further research will be needed to gauge fully the impact of debtor education in bankruptcy. In addition to further studies of impact on success in completion of Chapter 13 plans, it would be desirable to have longitudinal studies of debtors in both chapters, to follow their financial situations after bankruptcy and to track their financial condition and what events trigger further financial problems. Information should be gathered on individual characteristics of debtors who receive education, to see whether education is more effective for some sorts of debtors than for others. Also, analysis of individual characteristics of debtors who file in Chapter 13 and their completion rates could be used to identify debtors likely to fail, who might be better served if counseled not to file in that chapter (although if the proposed legislation is enacted, fewer debtors would have the option to file in Chapter 7). Studies of debtors' perceptions of financial education should examine not only their immediate reactions, when they may be most hopeful, but also their perspectives after time for them to get into financial difficulty again.

This study made use of the Chase Bankruptcy Information System accounting records of Chapter 13 trustees. Computerized trustee records are potentially a treasure

trove of information on what actually occurs in Chapter 13, as opposed to what is planned and shown in court filings at the outset of cases. On the other hand, the Chase system has limits. It was designed for accounting purposes and not for empirical research. In addition, some trustees use other systems, and even those who use the Chase system use it differently, causing difficulties for data collection and analysis. In order to capture repayment information for the full five years that Chapter 13 cases can last, it would be necessary to avoid purges of files before that time. It would be desirable to have trustees adopt uniform data entry protocols, to make it easier to analyze the data. Data files gathered in this study needed a great deal of preparation (involving reentry of information in uniform format) before analysis could be done. Some information could not be gleaned. For example, reliable analysis of information on duration of cases was precluded in part because dates were entered in different ways in open fields. The Executive Office of the US Trustees or the Administrative Office of the US Courts could offer support to the Chapter 13 trustees for a program of regular retrieval of data from accounting records and publication in standardized format of completion and repayment information. Repayment information should be broken down into case-by-case disbursements to secured, priority, and unsecured creditors and for administrative expenses (attorneys fees and trustee fees), allowing correlation of these payment variables with completion and duration information. A data retrieval program of this sort would provide a much fuller picture of Chapter 13 than we now have.

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