



# RECOMMENDATIONS FOR THE U.S. DEPARTMENT OF EDUCATION TO IMPROVE STUDENT EXPERIENCE IN NAVIGATING SCHOOL CLOSURE



**NASFAA**

NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS

# Acknowledgements

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It was authored by NASFAA's Policy, Federal Relations, and Research teams.

## Executive Summary/Foreword by NASFAA

As a response to the April 2015 closure of Corinthian Colleges, the National Association of Student Financial Aid Administrators (NASFAA) collaborated with other organizations to assist students whose college or career school closed while they were attending, or shortly after they withdrew - assisting more than 6,000 students from more than 30 closed institutions across the country. With the help of NASFAA's member volunteers, experienced financial aid administrators, and a ticketing portal, NASFAA has been able to assist students with questions on their eligibility for closed school federal loan discharge, borrower defense to repayment, Pell Grant restoration, and other financial aid-related questions.

During this time, the U. S. Department of Education (ED) has also helped students who have been displaced by school closures, many of whom are still finding it difficult to navigate the process of closed school federal loan discharge and to receive updates on their current status, or are still waiting on a response after submitting their application years prior. However, with all of the technical assistance provided through this effort by both NASFAA volunteers and ED, it has become clear that help should extend far beyond determining eligibility. There are still areas of growth that ED should consider in order to make the aftermath of school closure a smoother and less daunting experience for students.

To address the issues outlined above, NASFAA presents five recommendations for ED, which are outlined in more detail within this report:

**Recommendation #1: Proactively notify students of their eligibility and inform them of steps to initiate the process of closed school federal loan discharge.**

**Recommendation #2: Provide clearer, more consistent assistance to students in need of obtaining their academic transcripts, diplomas, and certificates.**

**Recommendation #3: Create a more streamlined system for checking statuses of closed school federal loan discharge and borrower defense to repayment applications.**

**Recommendation #4: Provide personal, one-on-one counseling services for students.**

**Recommendation #5: Require consumer testing of all materials.**

# Background

Students impacted by school closure have several options when institutions close. Institutions of higher education may make “teach-out” arrangements with other schools to permit their enrolled students to complete their studies at the new institution upon the closure of the first school. In the absence of the teach-out option, students can sometimes transfer credits from their closed institution to another institution of higher education. In instances where the student does not or cannot take advantage of these options, a closed school loan discharge is an option.

In addition to the above conditions, the closed school loan discharge is generally only available for students who did not complete their degree or credential, and were enrolled at the time the institution closed, or within 120 days of the institution’s closure. While closed school discharge applications have high approval rates (95 percent between 2011-15),<sup>1</sup> use of the closed school discharge option appears to have been historically underutilized. ED data show that, of 43,268 students who attended schools that closed between 2011 and 2015, only 9,606 closed school loan discharge claims were filed.<sup>2</sup> It is not known how many students may not have applied for closed school loan discharge because they continued their studies via a teach-out arrangement or transferred their credits to another institution. ED reported 10,527 closed school discharge applications as of November 2015 from former Corinthian Colleges students, of an estimated 15,000 borrowers that ED anticipated could be eligible.<sup>3</sup>

In contrast to the more straightforward eligibility criteria for a closed school loan discharge, the eligibility criteria for a borrower defense to repayment loan discharge are inherently more subjective. Section 455(h) of the Higher Education Act of 1965, as amended (HEA), authorizes ED to specify in regulation which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a Direct Loan. The implementing regulations, section 685.206(c), have been in place since 1995, but between then and 2015, only five borrowers applied for this option.<sup>4</sup> Those final regulations specify that a borrower may assert as a defense to repayment any “act or omission of the school attended by the student that would give rise to a cause of action against the school under applicable State law.”

The 2015 closures of Corinthian Colleges and ITT Technical Institute opened the floodgates for borrower defense claims. ED announced in June 2015 that it would develop new regulations to establish a more accessible and consistent borrower defense standard, and clarify and streamline the borrower defense process to protect borrowers.

The resulting rules were finalized in October 2016 and were scheduled to be effective on July 1, 2017, but were delayed by ED under the new administration. The 2016 rules ultimately went into effect on October 16, 2018, after a court ruling that the delays were unlawful. The rules were written for loans made on or after July 1, 2017, meaning that students impacted by the earlier Corinthian and ITT closures are subject to the previous standard based on state law. Notably, while the 2016 borrower defense rules were delayed, the Trump administration initiated a new rulemaking process to revise the eligibility standard and process for borrower defense claims. As of November 1, 2018, final rules as a result of this rulemaking effort had not been issued, delaying the effective date of any new rules until at least July 1, 2020.

As of March 2018, 84,362 former Corinthian students and 10,718 former ITT students had filed borrower defense claims.<sup>5</sup>

<sup>1</sup> <https://www.gpo.gov/fdsys/pkg/FR-2016-06-16/pdf/2016-14052.pdf>

<sup>2</sup> <https://www.gpo.gov/fdsys/pkg/FR-2016-06-16/pdf/2016-14052.pdf>

<sup>3</sup> <https://fas.org/sgp/crs/misc/R44068.pdf>

<sup>4</sup> <https://unbound.upcea.edu/research-and-policy/education-policy/the-evolution-of-the-department-of-educations-borrower-defense-to-repayment-rules/>

<sup>5</sup> <https://tcf.org/content/commentary/college-fraud-claims-29-percent-since-august-2017/>

# Recommendations

These recommendations explore remedies to some of the challenges students face during the process of navigating their eligibility for closed school federal loan discharge, borrower defense to repayment, and Pell Grant restoration, as well as overall challenges they face because of their experience with school closures. Furthermore, these recommendations emphasize the importance of making sure practices are in place that would best benefit the student's time and well-being.

## **Recommendation #1: Proactively notify students of their eligibility and inform them of steps to initiate the process of closed school federal loan discharge.**

At present, when a school closes, ED provides students with a date and time to view a live webinar presentation and adds a "fact sheet" to the corresponding school link on its website. The live webinar presentations are designed to provide students with information, such as when the institution notified ED that it was closing, the student's options regarding tuition recovery funds and closed school federal loan discharge, if they are eligible for loan forgiveness, and other information on their transcripts and transfer credit. At the end of the live webinar presentation, students have the opportunity to ask clarifying questions to ED representatives, more tailored to their individual situations. These live webinars are a good resource for students immediately following their school closure and are then uploaded and saved to the ED's website for future viewing. However, not all schools that have closed have an uploaded recording of webinars, often leaving the ball in the student's court to research information to help them determine their eligibility.

Since loan servicers process the loan discharge requests, rather than encouraging students to determine their eligibility on their own, ED should require servicers to actively notify students of their potential eligibility for loan discharge and inform them of the steps they need to take to initiate the discharge process. Servicers should proactively reach out to any of their borrowers who attended the closed institution. Correspondence should be divided into two groups: students who will qualify for closed school loan discharge and students who will not. Correspondence for those who do not qualify for closed school loan discharge should include the reasons they are not eligible and give additional guidance about their options. Those students should also be given the opportunity to verify whether the reasons of ineligibility are correct and if not, students should be instructed to contact the servicer to further discuss discrepancies.

The 2016 borrower defense rules require that ED automatically discharge a loan without an application from the borrower if the borrower did not subsequently re-enroll in any Title IV-eligible institution within three years of the school's closure. Even with the availability of automatic discharge, proactive outreach is warranted earlier than three years so eligible borrowers can complete the process and move forward with their lives.

## **Recommendation #2: Provide clearer, more consistent assistance to students in need of obtaining their academic transcripts, diplomas, and certificates.**

ED should provide clearer instructions to students who are in search of their academic transcripts, diplomas, certificates, and other documentation related to their attendance. Some students who desire to enroll in a new institution find it harder to complete this task without having these documents. There are instructions on ED's website that direct students to check their institution's fact sheet to obtain information on how to retrieve their transcripts, but most of the directions for each institution are inconsistent. When compared, one institution's fact sheet directs the student to dial a telephone number, another fact sheet suggests contacting their state agency, while another says to check the National Student Clearinghouse.

### **Recommendation #3: Create a more streamlined system for checking statuses of closed school federal loan discharge and borrower defense to repayment applications.**

An online portal should be created for students who wish to check the status of their closed school federal loan discharge and borrower defense to repayment applications. This portal could be linked to their FSA ID and would allow students to check the following:

- When the application was received
- A processing time (similar to that of the IRS tax return tracker/processing bar)
- If the reviewer needs additional information/documentation
  - If so, what?
- When the application review was completed
  - What was the result?
    - Denial or accepted?
- If accepted, when should the student expect to see their discharge finalized?
- If denied, reason(s) why

Currently, there is no electronic portal for students to access and determine where they are in the application process. Students are asked to contact their loan servicer to receive information about the progress of their closed school federal loan discharge application, but loan servicers often do not have that information. Students are also encouraged to contact ED via email or telephone for updates on their borrower defense to repayment applications.

There are times when students are not notified of the status of their applications and learn of their discharge by accident. For example, one student who has previously submitted a ticket request to the NextStepsEd website was interviewed for an internal website development project. During this interview with NASFAA staff, this student stated that he never received notification that his loan was discharged and learned of the approval of his closed school federal loan discharge application by checking his credit report.

### **Recommendation #4: Provide personal, one-on-one counseling services for students.**

As part of this project, NASFAA hired Coffey Consulting, LLC to conduct consumer testing on the content and design/layout of the NextStepsEd website, which provides information to students who have been affected by college and career school closures. The goal of this research was to identify the most useful and actionable information to include on the website. The results of this testing were not made public, but they shed light on several common problems among students. Students expressed a common theme of psychological and emotional trauma as a result of their school closures. Some shared that their shock, confusion, and frustration at finding out what their next steps are for their student loan debt and career goals resulted in depression and thoughts of self-harm. After students have trusted their futures and the future of their families with the institutions and their promises, they have been let down and have had their dreams shattered with little to no help. Their emotional states have been compromised.

In addition to the trauma students have already experienced from their schools closing and navigating the process of loan discharge, some have been victims of scams related to their school closure and loans. Some students have even been contacted by individuals offering to take care of their federal loan discharge applications for a fee. These unfortunate attempts to scam students have added on to the already difficult matter, causing more damage to students' emotional well-being.

ED provides a telephone number and email address for students to check on the status of their applications but often, what NASFAA volunteers have learned is that students need an opportunity to talk through their frustrations, to hear that someone cares about their situation and to acknowledge that their lives have been disrupted. To assist students better cope, ED should provide one-on-one counseling to students immediately following a school closure and provide them with resources or websites that would address their psychological and emotional needs, either within a mailed packet or as a resource on ED's website.

## Recommendation #5: Require consumer testing of all materials.

In 2003, the Center for American Progress (CAP) published a report emphasizing the importance of consumer testing of disclosures introduced by government agencies before distributing them to consumers. Consumer testing of student disclosures rarely occurs, however, and by foregoing consumer testing, “disclosures risk being overlooked and misunderstood” (Morgan & Dechter, 2012). “Specifically, ED and other federal agencies should ensure that disclosures such as the shopping sheet are subjected to “rigorous testing” such as the methods employed here – namely, focus groups, interviews and surveys – and then act on the results by making adjustments accordingly (Morgan & Dechter, 2012).<sup>6</sup>”

While the above studies focused specifically on consumer disclosures, their findings are applicable to all consumer materials.

ED should consumer test all closed school federal loan discharge and borrower defense applications from the user’s perspective to determine where the student may have difficulty understanding. Currently, applications and instructions for completing the applications are text-heavy, loaded with unfamiliar terms to students, and are difficult for students to understand and process. Moving forward, no new materials should be put into place until they have been consumer tested at the federal level, and ED should maintain the goal of improving effectiveness. Congress should direct ED to conduct such testing of current materials by a specified date and report on its findings.

## Summary

Unfortunately, the population that has been most affected by school closures are those students who decided, for various reasons, to choose to seek out alternative means of education rather than attending a traditional college. The typical demographic and student population of such for-profit institutions are those who already face challenges, are lower-income, and struggling to balance work, family, and school.

Most of the students attending schools that closed were looking for a way to better themselves by learning a trade, obtaining a degree that would provide and assist them with finding better paying careers, and to simply create better opportunities for themselves and their families. What some have found, in the end, is that they have been taken advantage of and left with thousands of dollars of debt, and no credentials. On top of this, students have experienced grief, confusion, and frustration in simply navigating the process of determining eligibility for closed school loan discharge. Students should be provided with a more comprehensive way of navigating this process, and ED should continue to make the necessary efforts to provide better assistance to these students.

<sup>6</sup> <https://www.nasfaa.org/uploads/documents/ektron/1bb3383b-54a1-40ee-b697-d1caee60d8f7/ca8b5d1a01794622b1aa3cb7220a98312.pdf>

**The National Association of Student  
Financial Aid Administrators (NASFAA)  
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for financial aid administrators;  
advocates for public policies that  
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