

# No More Corinthians: Why Students Need a Strong Borrower Defense Rule

## Executive Summary

Most colleges and universities help millions of Americans earn a degree or diploma that helps lead to economic security and a better life. In the wake of the Great Recession, it was revealed that too many for-profit colleges — by enrolling hundreds of thousands of students — sought to take advantage of the federal financial aid system to make windfall profits. Some colleges combined deceptive recruiting tactics, including misleading and lying to prospective students about job placement rates, transferability of credits, and future earnings with high-cost programs, and low-quality classes. These schools made lofty promises to vulnerable students but delivered, for a steep price, shoddy educations and — for those that completed — worthless degrees.

There is a decades-long history of abuses at for-profit colleges. Over the past few years, as the Trump Administration has rolled back regulations, for-profit colleges — especially those owned by publicly traded companies and private equity firms — have started to make enrollment gains after years of decline. In the months since the pandemic began, enrollments have surged.<sup>1</sup> The majority of their revenue comes directly from taxpayers, through Pell grants and federal student loans, and a significant portion of that revenue goes not to instruction, but to marketing, recruiting, and profit.<sup>2</sup> Students who attend for-profit schools bear disproportionate student debt burdens, far too often fail to complete, and have the highest rate of student loan default.<sup>3</sup>

The 2016 borrower defense rule was a direct response to [widespread deception](#) by multiple large for-profit colleges where students took out thousands of dollars in debt based on false or misleading information. Most notably, this includes the closures of Corinthian Colleges and ITT Technical Institute, two for-profit chains, where investigators repeatedly documented

widespread misleading and deceptive practices.<sup>4</sup> As federal and state regulators increased scrutiny, both schools ultimately collapsed, leaving tens of thousands of students in the lurch. This sparked a grassroots effort by students to file debt relief claims and applications for loan discharges based on misconduct by the schools and school closures. While federal law had long allowed for debts to be discharged on these bases, the 2016 rule created a process for these students to get out from under these fraudulently incurred debts and held colleges accountable for the cost of the cancelled loans, thus deterring future wrongdoing.

In 2019, the Trump Administration repealed the borrower defense rule and replaced it with a far weaker version, earning a bipartisan rebuke from Congress. Now, the Biden Administration and new Congress will need to consider how to restore protections for students and taxpayers against fraudulent colleges.

## How Corinthian and Other Colleges Cheated Students

At its height in 2010, Corinthian Colleges enrolled more than 110,000 students at 105 campuses across the country and offered hundreds of high-priced diploma and degree programs in fields such as health care, criminal justice, and business.<sup>5</sup> In that year, Corinthian earned \$1.7 billion in revenue, \$1.4 billion of which was comprised of federal financial aid funds in the form of Pell Grants, G.I. Bill funds, and federal student loans.<sup>6</sup> Through a combination of targeted internet and television ads, telemarketing, high-pressure sales tactics, and persistent recruiter harassment, Corinthian enrolled thousands of students each quarter — many of whom dropped out with student loan debt — but no diploma or degree.

The promise of a successful future with new career prospects was at the heart of the Corinthian sales pitch. Investigators found that Corinthian sought to

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exploit the emotional and financial vulnerabilities of low-income individuals who would be especially receptive to claims of easy, quick degrees and high-paying career opportunities. Corinthian explicitly targeted low-income and otherwise vulnerable students to enroll in these programs and made unfounded guarantees that they would boost students' career outcomes and earnings.<sup>7</sup> They also charged significantly higher tuition, on average, than comparable programs at public colleges. In fact, Senate investigators found that on average, for-profit colleges charged higher tuition than community colleges or public universities - in some instances, associate programs at for-profit

schools cost four times more than the same programs at community colleges.<sup>8</sup> Attending for-profit schools came at a high-cost and rather than reducing tuition to eliminate this gap, Corinthian marketed and promoted private student loans, known as Genesis loans, to its students.<sup>9</sup>

Before its collapse in 2015, Corinthian was riddled with scrutiny and lawsuits — the company was sued over 100 times in federal court, repeatedly by former students complaining of fraud, and Attorneys General in 21 states led investigations against Corinthian.<sup>10</sup>

### Timeline of Corinthian's Collapse:

- **2004** – The Department of Education reported an ongoing investigation into non-compliance with federal financial aid procedures, and tightened loan disbursement requirements.<sup>11</sup>
- **2007** – After a three-year investigation by the State of California, California Attorney General Jerry Brown threatened to sue the company for using deceptive advertising to recruit students, and reached a settlement that provided restitution to students, forced the closure of nine of the worst-performing programs, and prohibited the company from engaging in unlawful business practices.<sup>12</sup>
- **2012** – The Senate Health, Education, Labor and Pensions Committee released a [report](#) on, "For-Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success."
- **October 2013** – Again, the State of California, under California Attorney General Kamala Harris sued Corinthian, accusing the company of fraud and violations of their earlier injunction.<sup>13</sup> According to internal documents retrieved by California investigators, recruiters targeted potential students identified as "isolated" with "low-self-esteem" and who were "unable to see and plan well for the future," using marketing campaigns that misrepresented job placement rates and program offerings.<sup>14</sup> The investigation also alleged that Corinthian paid temp agencies to hire graduates for placements that typically resulted in two days of employment, and which were subsequently claimed as successful placements.<sup>15</sup>
- **November 2013** – The Consumer Financial Protection Bureau (CFPB) initiated an investigation of Corinthian.<sup>16</sup>
- **June 2014** – The Department of Education placed Corinthian schools on heightened cash monitoring (HCM) status after Corinthian failed to respond to inquiries about inconsistencies in its reported job placement rates.<sup>17</sup> As part of an agreement with the Department of Education, Corinthian began selling off and closing their campuses.<sup>18</sup>
- **September 2014** – The CFPB [sued](#) Corinthian for "unfair, deceptive, and abusive acts and practices" and violations of the Fair Debt Collection Practices Act related to its Genesis loan program.

- **February 2015** – ECMC closes deal to buy 53 Corinthian campuses.<sup>19</sup>
- **February 2015** – A group of 15 former Corinthian students went on a “debt strike”<sup>20</sup> and other students began the process of Borrower Defense to Repayment, formally asking the Department to provide loan relief, citing the company’s false graduation and placement rates that encouraged them to enroll in the first place.
- **March 2015** – In response to Department of Education and multiple state attorneys’ general findings of widespread misrepresentations, the Department announced expedited paths for debt relief for students at Corinthian campuses across more than 20 states.<sup>21</sup>
- **April 2015** – Corinthian was fined almost \$30 million by the U.S. Department of Education for misrepresenting its job placement rates.<sup>22</sup>
- **May 2015** – Corinthian filed for bankruptcy a week after [shutting down the remaining 28 campuses where](#) 16,000 students were enrolled and left unable to complete their programs.<sup>23</sup>
- **August 2015** – The U.S. Department of Justice, in representing the Department of Education in Corinthian’s bankruptcy case, found that Corinthian appeared to have violated federal rules for federal financial aid, including that funds disbursed by the Department were not transferred to students.<sup>24</sup>
- **2016** – The Obama Administration issued a new borrower defense rule to articulate a clear process to apply for and grant borrower defense discharges and hold colleges accountable for their wrongdoing.<sup>25</sup>
- **2017** – Upon entering office, the Trump Administration halted the processing of borrower defense claims,<sup>26</sup> and in June began rewriting the rule.<sup>27</sup> In response, 19 state attorneys general also filed suit in district court over the delay of the regulation.<sup>28</sup> The Project on Predatory Student Lending and Public Citizen represented two former students in a suit against the government to stop the Trump Administration’s delay of implementing the existing Borrower Defense rule.<sup>29</sup>
- **2018** – A federal judge ordered Secretary DeVos to stop collecting on the debt of members of a class action lawsuit, alleging unfair and illegal denial of relief to Corinthian borrowers while their case was ongoing.<sup>30</sup> Secretary DeVos was subsequently held in contempt of court after the Department of Education continued collecting the debt.<sup>31</sup>
- **2019** – The Trump Administration released a new rule that would make it almost impossible for students to get relief, and rolled back key borrower protections.<sup>32</sup> Five months later, the 2019 Borrower Defense Rule was challenged in court, and the case is still under pending litigation.<sup>33</sup>
- **2020** – Congress delivered a bipartisan rebuke to the rule, voting in the House and Senate to overturn the Trump Administration’s rule and restore protections for students. President Trump vetoed the resolution, and the House of Representatives failed to override the presidential veto on House Joint Resolution 76, making it more challenging for students who were lied to by their schools to cancel their student loans.<sup>34</sup> The rule created additional roadblocks for defrauded students in the middle of an economic and public health crisis.

Today, thousands of former Corinthian students remain in pending litigation with the Department who continues to create roadblocks for students looking to gain access to their rightful borrower defense claims. You can read more about current and ongoing cases [here](#).

Corinthian was not alone in harming students, and a number of schools closed following Corinthian's collapse, most notably ITT Educational Services Corporation, Incorporated ("ITT") shut down.

ITT was one of the largest for-profit education companies offering expensive programs to students and relied heavily on Federal aid to make ends meet.<sup>35</sup> The company had been around since the mid-1990s, enrolling students with the similar promise of obtaining a good job and well-paying salary.

In 2004, the federal government began investigating instances of fraud related to student recruitment, enrollment and dropout rates, grade inflation, job placements, salaries, and even loans and while the investigation was ultimately closed, uncertainty in the legitimacy of the company's enrollment and recruiting practices continued to grow.<sup>36</sup> The following year, ITT even agreed to a settlement with California after it was revealed that they inflated grades to qualify students for federal aid.<sup>37</sup> Despite being investigated or sued by 19 other states, ITT continued to enroll students in overly pricey programs that left those students who completed with an enormous amount of debt and worthless degrees. The Department began actively monitoring ITT's finances in 2014 and following in Corinthian's footsteps, in September 2016, ITT Technical Institute, closed down.<sup>38</sup>

The collapse of Corinthian and ITT was followed by additional closures of for-profit colleges which had been identified as engaging in predatory and misleading practices, including schools formerly owned by EDMC: the Art Institutes, Argosy University, and South University.<sup>39</sup> Two additional sets of colleges owned by Education Corporation of America and Vatterott collapsed, closing campuses in 19 states in late 2018 and early 2019, each leaving thousands of students holding debt.<sup>40</sup>

***They told me that every student that graduated the program was placed.<sup>41</sup>***

***I was told I would be able to attain a job in my field with no problem. I have applied to multiple agencies and was told I was not qualified.<sup>42</sup>***

***"I was told by the recruiters from the school about wages I could make that I have yet to be able to earn due to the fact that the school is and was not very credible ... the ITT Tech recruiters assured me AA students graduate making around 50-60K a year and the BS graduates would be around 80K a year. They misrepresented their product, their name brand and their education."<sup>43</sup>***

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## What is the Borrower Defense Rule?

The Borrower Defense to Repayment (BD) Rule was finalized by the Obama Administration in 2016 in order to offer students a path to relief from federal loans borrowed based on fraudulent, misleading, or illegal acts by their schools. Borrower Defense is an established legal right for many forms of consumer credit, and it has been a part of the Higher Education Act for more than twenty years. The 2016 rule established a more accessible and consistent standard to protect borrowers.<sup>44</sup>

The rule offered a critical protection for students and acted as deterrent for misleading and deceptive practices by colleges and is intended to protect students from having to repay loans that they borrowed based on false information. The 2016 rule created a process for students to apply for this relief, as well as a process for the Education Department to fairly evaluate claims. It also articulates processes for the Education Secretary to approve loan relief for groups of students.<sup>45</sup>

The Education Department can also recover cancelled loan amounts from schools found to have engaged in misconduct, and requires risky schools to put money aside to cover potential student loan discharges for misconduct or closure. By making clear that schools will be held accountable if they break the law, the BD Rule deters these practices. The rule also offers critical new protections for students who attended schools that closed suddenly – offering these students automatic cancellation of their student loans, and prevented colleges from forcing students into mandatory arbitration.<sup>46</sup> Such arbitration clauses, which many for-profit schools include in enrollment agreements, make it harder to bring to light misconduct by schools.

The BD Rule was first published on November 1, 2016 and was set to take effect on July 1, 2017. Upon taking office in 2017, the Trump Administration sought to illegally delay the 2016 rule and initiated a new regulatory process; ultimately, they published a new defense regulation in September 2019 that made it virtually impossible for students to cancel loans. In response, Congress passed a bipartisan resolution that sought to overturn the new, weaker rule. While the resolution

halting the 2019 rule passed both the House and the Senate, the resolution was vetoed in July 2020 – the only domestic veto of the Trump Administration.<sup>47</sup> The new rule took effect on July 1, 2020 and applies to all student loan borrowers taking loans after that date.<sup>48</sup>

The new rule requires student borrowers to show that their school committed fraud “with knowledge”, that the claims were deceptive, and prove that they experienced financial harm as a result. The new regulation eliminates automatic cancellation of debt of students whose schools close at the end of three years. Most of these new obstacles will lead to the denial of meritorious claims, which will only add to the current mountain of backlogged claims sitting at the Education Department. A TICAS analysis of the Department’s own estimates demonstrates that the 2019 rule will relieve students cheated by their college of just 3 percent of the resulting debt, while less than 1 percent of loans based on misconduct will ever be recovered from colleges.<sup>49</sup>

## Conclusion

For-profit schools wreaked havoc on students in the wake of the Great Recession. While much of the misconduct was reigned in as a result of action by the Obama Administration, including the BD rule, after four years of rollbacks by the Trump Administration students are once again at risk. Moreover, the nation is now in a recession again and a global health crisis is driving many students to pursue degrees online and closer to home. These factors appear to be leading to a rise in for-profit college enrollment. During the ongoing COVID-19 pandemic, online education has furthermore allowed students to continue their education in the face of public health restrictions on in-person interactions. Yet the efficacy of online education remains unproven, especially for students with academic or other challenges. As such, the rapid unprecedented shift to online education that occurred with the onset of the pandemic is a large-scale experiment with unknown consequences – and the shift to online classes may outlive the COVID-19 pandemic.<sup>50</sup> Significant reforms are needed to require for-profit colleges to align their financial incentives with student success and ensure that taxpayer dollars are used to further the educational mission of the colleges, rather than to fuel their bottom lines. If these reforms are not made,

the sector will continue to prey on students and feast on taxpayer money, saddling potentially hundreds of thousands of students with high debt and low-value degrees and leaving taxpayers holding the bag.

Thousands of ITT and Corinthian students are still wrapped up in years of litigation and are waiting for the Department to fully eliminate their loans and provide relief. Under the previous Administration's BD regulations, students who were lied to by their school will find it nearly impossible to cancel their student loans. The rule creates roadblocks for defrauded students in the middle of an economic and a public health crisis, while imposing next to no consequences for the deceitful colleges.

## Endnotes

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