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Effect of Corinthian Colleges' Closure on Student Financial Aid: Frequently Asked Questions

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Summary

Corinthian Colleges, Inc. (CCI) was the parent company of several private, for-profit institutions of higher education, including the Everest Institute, Everest Colleges, Heald Colleges, and Wyotech Technical Schools. CCI operated more than 100 of these institutions across the nation, with total enrollments of approximately 72,000 students who annually received roughly \$1.4 billion in federal financial aid.

In summer 2014, the Department of Education (ED) limited CCI's access to federal student aid in response to CCI's failure to address concerns relating to a variety of practices, including failing to provide ED with requested data related to CCI's Title IV participation. To avoid abrupt closure of its schools due to the financial stresses that the limited access to federal student aid put on CCI, the company and ED reached an agreement under which CCI agreed to sell or "teach-out" its educational programs. Subsequently, the Zenith Education Group (Zenith) was formed by the Education Credit Management Corporation (ECMC) as a nonprofit entity for the purpose of buying a large portion of CCI's schools. Those CCI schools not purchased by Zenith closed.

This report answers several frequently asked questions regarding the effect of the sale and closure of CCI's schools as they relate to former CCI students' student aid, including the following:

- Are former CCI students eligible to have their student loans discharged?
- How will the discharge of federal student loans affect former CCI students' future eligibility for loans?
- Will the discharge of federal student loans create an income tax liability for former CCI students?
- Is there any relief for former CCI students who received Pell Grants?
- Is there any relief for former CCI students who received GI Bill benefits?

Additional information on the HEA federal student loan programs is available in CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole; and CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*, by Alexandra Hegji and David P. Smole.

Additional information on the Pell Grant program is available in CRS Report R42446, *Federal Pell Grant Program of the Higher Education Act: How the Program Works and Recent Legislative Changes*, by Cassandra Dortch.

Additional information veterans' education benefits is available in CRS Report R42755, *The Post-9/11 Veterans Educational Assistance Act of 2008 (Post-9/11 GI Bill): Primer and Issues*, by Cassandra Dortch; and CRS Report R42785, *GI Bills Enacted Prior to 2008 and Related Veterans' Educational Assistance Programs: A Primer*, by Cassandra Dortch.

Additional information on institutional eligibility to participate in the Higher Education Act Title IV federal student aid programs is available in CRS Report R43159, *Institutional Eligibility for Participation in Title IV Student Financial Aid Programs*, by Alexandra Hegji.

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Introduction

Corinthian Colleges, Inc. (CCI) was the parent company of several private, for-profit institutions of higher education, including the Everest Institute, Everest Colleges, Heald Colleges, and Wyotech Technical Schools. CCI operated more than 100 of these institutions across the nation, with total enrollments of approximately 72,000 students who annually received roughly \$1.4 billion in federal financial aid.¹

On June 19, 2014, the U.S. Department of Education (ED) announced that it had placed CCI on an increased level of financial oversight known as Heightened Cash Monitoring 1 (HCM1), coupled with a 21-day waiting period for funds reimbursement, as a stipulation to its continued participation in the Higher Education Act (HEA) Title IV federal student aid programs.² ED had taken this action in response to CCI's failure to address concerns relating to a variety of practices, including failing to provide ED with requested data related to inconsistencies in job placement rates that had been presented to students.³

In response to its limited access to federal student aid funds, CCI announced it may have to close its schools. On July 3, 2014, to avoid abrupt closure, CCI and ED reached an agreement under which the company agreed to develop a plan to sell or teach-out⁴ its educational programs. In exchange, ED agreed to immediately release \$16 million in federal student aid (FSA) funds to CCI's current students.⁵

Subsequently, the Zenith Education Group (Zenith) was formed as a nonprofit provider of career education programs. Zenith is a subsidiary of the Educational Credit Management Corporation (ECMC), a nonprofit student loan guaranty agency involved in the administration of loans made

¹ U.S. Department of Education, "U.S. Department of Education Heightens Oversight of Corinthian Colleges," press release, June 19, 2014, <http://www.ed.gov/news/press-releases/us-department-education-heightens-oversight-corinthian-colleges>.

² ED has in place cash management regulations, which institutions participating in HEA Title IV programs (e.g., Pell Grant, Subsidized and Unsubsidized Student Loans) are required to follow when requesting and managing federal student aid (FSA) program funds. Typically, schools operate under the "advance payment method" of requesting FSA funds. In this case, an institution requests FSA funds from ED. If ED accepts the request, it permits the requesting school to draw down federal funds from its FSA processing system. However, in certain cases, ED may require an institution to use a different form of cash management, such as HCM1 in the case of CCI. Under HCM1, schools must first disburse financial aid to eligible students from institutional funds and may then request to draw down federal funds from ED's processing system. In CCI's case, after it disbursed financial aid funds to students it was required to wait 21 days before it could request and draw down federal funds from the processing system. See 34 C.F.R. 668.162.

³ U.S. Department of Education, "U.S. Department of Education Heightens Oversight of Corinthian Colleges," press release, June 19, 2014, <http://www.ed.gov/news/press-releases/us-department-education-heightens-oversight-corinthian-colleges>.

⁴ A teach-out plan is a "written plan that provides for the equitable treatment of students if an institution of higher education ceases to operate before all students have completed their program of study." HEA §487(f)(2). Teach-out plans help enable students to complete their program of study either at the closing institution or a second institution that agrees to provide an educational program to the former institution's students. For additional information on teach-out plans, see CRS Report R43159, *Institutional Eligibility for Participation in Title IV Student Financial Aid Programs*, by Alexandra Hegji.

⁵ U.S. Department of Education "U.S. Department of Education Accepts Operating Plan from Corinthian Colleges, Inc.," press release, July 3, 2014, <http://www.ed.gov/news/press-releases/us-department-education-accepts-operating-plan-corinthian-colleges-inc>.

through the Federal Family Education Loan (FFEL) program. Zenith was formed for the purpose of buying a large portion of CCI's schools. In February 2015, Zenith agreed to buy 53 of CCI's schools. As part of the terms of the final agreement with ED and the Consumer Financial Protection Bureau (CFPB),⁶ Zenith agreed to provide \$480 million in debt relief to former CCI students for private student loans advanced by CCI to its students (known as Genesis loans).⁷

On April 14, 2015, ED notified CCI that it would fine the company \$30 million for misrepresenting its job placement data at its Heald College locations. Approximately one week later, CCI closed its remaining 30 schools. Finally, in early May 2015 CCI filed for Chapter 11 bankruptcy under the U.S. Bankruptcy Code.⁸

Student Loans

Are former CCI students eligible to have their student loans discharged?

Former CCI students may be provided some relief from being required to repay their student loans, depending on the type of loan they seek to have discharged and specific borrower circumstances.

Private Education Loans

Under the terms of its agreement with ED and the CFPB concerning Zenith's purchase of certain CCI schools, Zenith agreed to provide approximately \$480 million in debt relief for former CCI students who took out private education loans advanced by CCI to its students known as Genesis loans. The debt relief will benefit former CCI students with qualifying loans, regardless of whether the CCI school they attended was purchased by Zenith. These borrowers' total loan balances will immediately be reduced by 40%, but borrowers will remain responsible for repaying the remaining balance of the loan. Borrowers who are eligible for this type of debt relief do not need to take additional steps to receive it. Their loan servicer will notify them if they qualify for the relief.⁹

⁶ The CFPB has been pursuing a separate cause of action against CCI, alleging predatory lending and illegal collections tactics. Consumer Financial Protection Bureau, "CFPB Sues For-Profit Corinthian Colleges for Predatory Lending Scheme," September 16, 2014, <http://www.consumerfinance.gov/newsroom/cfpb-sues-for-profit-corinthian-colleges-for-predatory-lending-scheme/>.

⁷ U.S. Department of Education, "More Than 50 Corinthian Campuses Transition to Nonprofit Status Under Zenith Education Group," press release, February 3, 2015, <http://www.ed.gov/news/press-releases/more-50-corinthian-campuses-transition-nonprofit-status-under-zenith-education-group>.

⁸ U.S. Department of Education, Federal Student Aid, "History of Corinthian Colleges' Agreement with the U.S. Department of Education," <https://studentaid.ed.gov/sa/about/announcements/corinthian#history>, accessed June 3, 2015.

⁹ For additional information on the terms of the agreement as they pertain to private education loans, see Consumer Financial Protection Bureau, "Special Bulletin for Current and Former Students Enrolled at Corinthian-Owned Schools," February 3, 2015, http://files.consumerfinance.gov/f/201502_cfpb_bulletin_current-and-former-students-enrolled-at-corinthian-owned-schools.pdf.

Federal Student Loans

For HEA Title IV federal student loans (i.e., loans made under the Direct Loan (DL), Federal Family Education Loan (FFEL), and Perkins Loan programs) different procedures for borrowers to receive debt relief may apply depending on whether a borrower's loan would be discharged on the basis of a school closure or on the basis of the borrowers asserting a defense against repayment.

Closed School Loan Discharge

Students who attended a CCI school that closed may be eligible to have the full balance of their outstanding HEA Title IV loans discharged. In general, borrowers of Title IV loans may be eligible to have the full balance of their outstanding HEA Title IV loans discharged if they, or the student on whose behalf a parent borrowed in the case of Parent PLUS Loans, are unable to complete the program in which they enrolled due to the closure of the school.¹⁰ Borrowers who have their loans discharged due to a school closure are also eligible to be reimbursed for any amounts previously paid on those loans, and if any adverse credit history was associated with the loan (e.g., default), the loan discharge will be reported to credit bureaus so that they may delete the adverse credit history associated with the loan.¹¹

Typically, to be eligible for loan discharge due to school closure, the student must have stopped attending the school within 120 days of the school's closing date and the student must also have been unable to complete the program of study at either the closed school or a comparable educational program at another school, either through a teach-out or by transferring credits to another school.¹² If the closing school offers the option for students to complete their education through a teach-out at another school, a student may refuse the option and would still qualify for loan discharge. If a student refuses the teach-out, later enrolls at another school in a program substantially similar to the one in which he or she had been enrolled, receives credit for work completed at the closed school, and completes the new program, then the student may not qualify for closed school discharge.¹³

On June 8, 2015, ED announced that borrowers who were attending the CCI schools that closed in April 2015, and those students who withdrew within 120 days of those schools closing, would be immediately eligible for closed school discharge of their Title IV student loans, so long as they

¹⁰ HEA §437(c)(1); HEA §455(a)(1); HEA §464(g).

¹¹ 34 C.F.R. §685.214(a)(4).

¹² Guidance provided by ED to former CCI students indicates that if a student enrolled in a comparable educational program at a new school, completed it, and received credits for the classes taken at the closed school, then the student is ineligible for loan discharge; but, if the student enrolled in and completed a comparable program of study at a new school and the new school did not give them credit for *any* coursework completed at the closed school, then the student would be eligible for loan discharge. U.S. Department of Education, Federal Student Aid, "Frequently Asked Questions About Corinthian Colleges," Question 9, <https://studentaid.ed.gov/sa/about/announcements/corinthian/faq#loan-discharge>, accessed May 28, 2015. Alternatively, if a student transferred credits to a new school but completed a completely different program of study at the new school, then the student is eligible for loan discharge, as the program at the new school is entirely different than the one for which the loans were intended at the previous school. U.S. Department of Education, Federal Student Aid, "Q&A on Closed School Discharge," <https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/closed-school#q-and-a>, accessed June 3, 2015.

¹³ U.S. Department of Education, Federal Student Aid, "Frequently Asked Questions About Corinthian Colleges," <https://studentaid.ed.gov/sa/about/announcements/corinthian/faq>, accessed June 9, 2015.

neither finish their program of study through a teach-out nor transfer the credits they earned at a CCI school to another school in a similar program. Additionally, ED expanded the withdrawal timeframe for students who attended those CCI schools that closed in April 2015. ED will now permit those students who withdrew from those schools after June 20, 2014, to have their Title IV student loans discharged due to school closure.¹⁴

Borrowers who are eligible for this type of relief must fill out the Closed School Loan Discharge Application and return it to their loan servicer.¹⁵ While their applications are being considered, borrowers are required to continue making payments of their loans; although, loan servicers are permitted to grant forbearance¹⁶ until a decision is made. Additionally, to obtain discharge a borrower must cooperate with ED in any judicial or administrative proceeding brought by ED to recover amounts discharged from the school.¹⁷ If a borrower fails to cooperate with ED, the loan discharge may be revoked.¹⁸

Borrower Defense Against Repayment

Borrowers who attended a CCI school that was purchased by Zenith and borrowers who attended a CCI school that closed but who are ineligible for closed school loan discharge may seek debt relief on their FFEL or DL program loans by asserting certain defenses against repayment.¹⁹ In certain circumstances, borrowers of DL program loans may be able to assert as a defense against repayment of their loan “acts or omissions of an institution of higher education,” as specified in regulation.²⁰ ED has determined in regulation that such acts and omissions are those that would “give rise to a cause of action against the school under applicable State law.”²¹

¹⁴ U.S. Department of Education, Federal Student Aid, “Information about Debt Relief for Corinthian Colleges Students,” <https://studentaid.ed.gov/sa/about/announcements/corinthian>, accessed June 9, 2015.

¹⁵ The Secretary is required to mail to each borrower a discharge application and an explanation of qualifications and procedures for obtaining a discharge. 34 C.F.R. §385.215(f)(3).

¹⁶ Under forbearance, a borrower is able to stop making payments or reduce their monthly payments on their federal student loans for up to 12 months. During this time, interest continues to accrue on subsidized and unsubsidized loans.

¹⁷ For instance, the borrower may be required to provide testimony supporting a request for discharge.

¹⁸ 34 C.F.R. §685.214(c) & (d).

¹⁹ Regulations for the FFEL program provide instances in which an FFEL program loan may be legally unenforceable, such that a borrower need not repay it. While the language of the FFEL program regulations does not specifically identify acts or omissions by an institution as a defense against repayment, ED has stated that the claims a borrower could bring as a defense against repayment under the FFEL program are the same as those that could be brought under the DL program. See U.S. Department of Education, “Notice of Interpretation,” 60 *Federal Register* 37769-37770, July 21, 1995. There are no similar provisions related to borrower defenses for Perkins loans. However, the HEA grants the Secretary authority to “enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand ...”, which it appears could effectively give the Secretary discretion to discharge student loans when appropriate under these two programs. HEA §§432(a)(6), 468(2). As of academic year 2013, the Wyotech Laramie campus was the only CCI school participating in the Perkins Loan program.

²⁰ HEA §455(h).

²¹ 34 C.F.R. §685.206(c). In the instance of CCI, a cause of action under state law might include alleged violations of state consumer protections laws. Several states’ attorneys general have brought cases against or are investigating CCI for such violations. See Letter from Jack Conway, Kentucky Attorney General, George Jepson, Connecticut Attorney General, and Douglass S. Chin, Hawaii Attorney general, et al. to Arne Duncan, U.S. Secretary of Education, May 13, 2015, http://ag.ky.gov/pdf_news/corinthian-letter.pdf. The borrower is not required to sue or obtain a judgment against a school in state court to be able to assert the defense; rather, he or she must be able to prove to ED the elements required to establish the claim under relevant state law. Letter from Elizabeth Warren, Honorable, et al. to Arne Duncan, Secretary U.S. Department of Education, December 9, 2014.

If the borrower's defense is successful, ED will determine the amount of debt relief to which the borrower is entitled, which can include relief from repaying all or part of the outstanding loan balance and reimbursement for previous amounts paid toward the loan.²² Additionally, if any adverse credit history was associated with the loan (e.g., default) the loan discharge will be reported to credit bureaus so that they may delete the adverse credit history associated with the loan.²³

Unlike the case of a loan discharge due to school closure, there is no clearly established process for a borrower to seek debt relief through a defense against repayment, as ED has infrequently needed to process such claims in the past. ED has revealed that it is working to create a simplified process for borrowers who will assert a defense against repayment to do so.²⁴ Borrowers who submitted a claim for borrower defense before June 8, 2015,²⁵ and those borrowers who subsequently do so, may request that their loans be placed in forbearance and that collections on any defaulted loans cease.²⁶

ED recently announced it has created a streamlined process for asserting a defense against repayment for certain borrowers who attended CCI's Heald College locations. ED found that CCI misrepresented job placement rates for a majority of programs at its Heald College campuses between 2010 and 2014 and fined the company \$30 million for those misrepresentations. ED determined that these findings qualify borrowers enrolled in specified Heald College programs during specified time periods for a loan discharge through a newly established expedited process specific to those former Heald College students.²⁷ ED has provided a list of Heald College programs and enrollment periods that determine which borrowers may be eligible for the expedited process on its website.²⁸ Under the expedited process, eligible borrowers need only complete an attestation form, asserting that they relied on the fraudulent job placement rates. While borrowers' claims are being processed, they may request that their loans be placed in forbearance and that collections on any defaulted loans cease.

²² After debt relief is obtained, ED may require the repayment of funds and the purchase of the loans by the school whose acts or omissions resulted in the borrower's successful defense against repayment, if it is found that the unenforceability of the loan resulted from the school's violation of federal or state law or the school's negligent or willful false certification of a borrower's eligibility for the loan. 34 C.F.R. §685.308(a).

²³ 34 C.F.R. §685.206(c)(2)(iii).

²⁴ This process will include appointing a "Special Master" to oversee borrower defense issues for former CCI students specifically, and to help develop a broader system to support students at other institutions who believe they may have a defense against repayment. U.S. Department of Education, "Fact Sheet: Protecting Students from Abusive Career Colleges," press release, June 8, 2015, <http://www.ed.gov/news/press-releases/fact-sheet-protecting-students-abusive-career-colleges>.

²⁵ It is reported that approximately 1,400 borrowers have already submitted debt relief claims to ED. Michael Stratford, "Debt Relief Unveiled," *Inside Higher Ed*, June 9, 2015.

²⁶ U.S. Department of Education, Federal Student Aid, "Information about Debt Relief for Corinthian Colleges Students," <https://studentaid.ed.gov/sa/about/announcements/corinthian>, accessed June 9, 2015.

²⁷ *Ibid.*

²⁸ U.S. Department of Education, Federal Student Aid, "List of Heald College Programs and Enrollment Dates Covered by Department of Education Findings," <https://studentaid.ed.gov/sa/sites/default/files/heald-findings.pdf>, accessed June 9, 2015.

How will the discharge of federal student loans affect former CCI students' future eligibility for loans?

Loan discharge due to school closure or a successful defense against repayment claim is unlikely to adversely affect a student's eligibility for future HEA Title IV loans. It appears that neither lifetime loan limit amounts nor the limits on the amount of time for which a student may receive specified loans are likely to be negatively impacted. For students who received a loan discharge due to school closure, the amount of the loan originally disbursed will not count against their lifetime loan limit amounts.²⁹ Moreover, the HEA specifically states that the period of attendance "at an institution at which a student was unable to complete a course of due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title,"³⁰ thus, the limits on the amount of time for which a student can receive a DL program Subsidized Loan are also unlikely to be impacted negatively.

Will the discharge of federal student loans create an income tax liability for former CCI students?

In general, cancelled or forgiven debt or debt repaid on a borrower's behalf, including student loan debt, is included in gross income for purposes of federal taxation; therefore, borrowers whose debt has been cancelled can incur federal income tax liability associated with the cancellation.³¹ Thus, if a former CCI student's federal student loans are discharged due to school closure or a successful defense against repayment claim, the amount of the loan discharge is likely to be included in gross income for purposes of federal income taxation and the borrower will be responsible for paying any federal income tax liability associated with the discharge. Additionally, if a former CCI student's private education loan balance is reduced per Zenith's agreement with ED and the CFPB, the amount of loan reduction is also likely to be included in gross income for purposes of federal income taxation, and the borrower will be responsible for paying any federal income tax liability associated with that debt reduction.

²⁹ Typically, limits are placed on the total amount of outstanding DL program Subsidized and Unsubsidized Loans and Perkins Loans a student may borrow. Additionally, first-time borrowers on or after July 1, 2013, may not receive DL program Subsidized Loans for more than 150% of the published length of their academic program (e.g., up to six years for a four-year degree program). For additional information on loan limits, see CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole; and CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*, by Alexandra Hegji and David P. Smole.

³⁰ HEA §§437(c)(3), 464(g)(3).

³¹ IRC §61(a)(12). Cancelled or forgiven student loan debt may be excluded from gross income under IRC §108(f) in limited circumstances if the loan is cancelled or forgiven for work in certain professions or occupations, for a specified period of time, and for any broad class of employers, per the loan's terms and conditions. For more information, see U.S. Congress, Senate Committee on the Budget, *Tax Expenditures: Compendium of Background Material on Individual Provisions*, committee print, prepared by the Congressional Research Service, 113th Cong., 2nd sess., December 2014, S.Prt. 113-32 (Washington: GPO, 2014), pp. 677-681.

Other Types of Federal Education Benefits³²

Is there any relief for former CCI students who received Pell Grants?

There are no statutory or regulatory provisions that provide relief to students who used Pell Grants to attend an institution of higher education (IHE) that closed. Additionally, there are no provisions to restore a portion of a student's eligibility toward the Pell lifetime eligibility limit of 12 full-time semesters (or the equivalent). It appears unlikely that students who used Pell Grants to attend a CCI school will be able to have their Pell Grant eligibility restored.

Is there any relief for former CCI students who receive GI Bill benefits?

There are no statutory or regulatory provisions that provide relief to students who used GI Bill educational assistance benefits to attend an IHE that closed. Additionally, there are no provisions to restore a portion of a student's GI Bill entitlement, which is typically equal to 36 months (or the equivalent for part-time educational assistance) of enrollment. The Department of Veterans Affairs has indicated that "no debts will be created against students because of the school closure."³³ In other words, students will not have to repay benefits received for periods of enrollment that did not occur as a result of the school's closure. Thus, it appears unlikely that students who used GI Bill educational assistance benefits to attend a CCI school will be able to have their entitlement restored for the amount used to attend a CCI school; however, they will not be responsible for repaying GI Bill benefits received and used to attend a CCI school.

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³³ U.S. Department of Veterans Affairs, *Corinthian College Students - What You Should Know*, April 30, 2015, available at <http://www.benefits.va.gov/gibill/>.