

Date of Hearing: April 5, 2016

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 2581 (Medina) – As Introduced February 19, 2016

SUBJECT: Higher education: campus closures: Corinthian Colleges, Inc

SUMMARY: Provides financial and other assistance to students of Heald, Everest, and WyoTech campuses in California, which were owned by Corinthian Colleges, Inc. (CCI) and closed unlawfully on April 27, 2015. Specifically, **this bill:**

- 1) Establishes numerous findings and declarations, including Legislative intent that grant funds be made available from STRF to assist former students of CCI in obtaining federal and private loan discharge and other financial aid related relief, that the amount of funds available be calculated by multiplying the number of students (13,000) enrolled at the time of the institution's unlawful closure by \$100, and that organizations receiving grants use available funds in ways that maximize the number of California students that apply for and receive loan discharge and tuition recovery.
- 2) Restores up to two years of Cal Grant and National Guard Education Assistance awards for students who enrolled at Heald and received awards in the 2013-14 or 2014-15 academic years, were unable to complete their educational programs, and withdrew between July 1, 2014, and April 27, 2015. Requires an eligible student to notify the California Student Aid Commission (CSAC) of his or her intent to use this restoration by July 1, 2018.
- 3) Authorizes, until July 1, 2017, a state agency that provides licensure to consider for licensure any student who was enrolled in an educational program of CCI designed to lead to licensure from that state agency, and who did not receive that licensure due to the institution's closure.
- 4) Provides \$1.3 million from STRF to the Attorney General (AG) to provide grants to eligible nonprofit community service organizations (CSOs) in order to assist eligible CCI students by relieving or mitigating the economic and educational opportunity loss incurred by those students. Authorizes \$150,000 for AG administrative costs.
- 5) The bill establishes the following program parameters:
 - a) Grant agreements must ensure funds are used for the exclusive purpose of assisting eligible students with federal and private loan discharge and other financial aid relief, and that students eligible to claim recovery through STRF are referred to BPPE. Grants may be used for CSOs to screen student requests for assistance in order to determine if students meet eligibility requirements. Services provided by CSOs may include outreach and education, screening requests for assistance, referring students for additional legal assistance through pro bono referral programs, and legal services.
 - b) An eligible CSO must satisfy all of the following:
 - i) The CSO is a 501(c)(3) tax-exempt organization in good standing with the Internal Revenue Service and in compliance with all applicable laws and requirements;

- ii) The CSO demonstrates expertise in assisting students with, and currently provides free direct legal services to students for, or will work in partnership with or under the supervision of an attorney or a nonprofit legal services organization that has demonstrated expertise in assisting students with, student loan and tuition recovery-related matters; and,
- iii) The CSO does not charge students for services.
- c) An eligible student is defined as a student who was enrolled at CCI and who has been screened by the CSO and determined to be eligible for debt relief from USDE or other student financial aid relief.
- d) Requires BPPE to notify the Attorney General (AG) of all unlawful CCI closures, as specified, within 15 days of the passage of this bill.
- e) Requires the AG to, within 90 days of the notification, solicit grant applications, select grantees, and notify BPPE of the recipient organizations, as specified. The AG is authorized to enter into contract with another qualified entity to perform these duties.
- f) Requires, 30 days of selection, the CSO must enter into a grant agreement with the AG. Provides that unused funds must be returned to STRF. Authorizes the AG to terminate the grant agreement for material breach, and to require repayment of funds. Requires the AG to provide the grantee a notice and reasonable opportunity to resolve the breach.
- g) Authorizes a CSO to give priority to low-income students if demand exceeds available grant funds.
- h) Requires a CSO to report to the AG quarterly through the grant period on all of the following:
 - i) The number of eligible students served pursuant to the grant agreement.
 - ii) A detailed summary of services provided to those students.
 - iii) The number of STRF claims referred to the bureau.
 - iv) The number of federal loan forgiveness claims filed and the number of those claims approved, denied, and pending.
 - v) The number of students screened by the nonprofit community service organization who were determined ineligible for assistance with debt relief, a summary of reasons for ineligibility, and a summary of any services or referral information provided to those students.
 - vi) Any other information that is deemed appropriate by the AG.
- i) Requires the AG to make reports available to the Legislature and BPPE upon request.
- j) Requires the AG to provide the Legislature and BPPE a final report summarizing the information reported by the CSOs following the expenditure of all funds, or by January 1, 2019, whichever is earlier.

- k) Provides that funds shall be distributed to preapproved CSOs as follows:
 - i) Fifty percent shall be distributed to the grantee within 30 days of the grantee entering into a grant agreement;
 - ii) Twenty-five percent shall be distributed to the grantee upon the submission of the grantee's second quarterly report.
 - iii) Twenty-five percent shall be distributed to the grantee upon the submission of the grantee's third quarterly report.
- l) Provides emergency rulemaking authority for implementation of this program.
- m) Declares this bill an urgency statute to take effect immediately.

EXISTING LAW:

- 1) Establishes the BPPE within the Department of Consumer Affairs with the primary function of providing protection of students/consumers through the regulation and oversight of private postsecondary educational institutions. BPPE oversight activities are funded by licensing fees paid by regulated institutions. Existing law also provides for a variety of exemptions from oversight by the Bureau for specific types of institutions, including institutions accredited by the Western Association of Schools and Colleges (WASC). However, pursuant to SB 1247 (Lieu), Chapter 840, Statutes of 2014, all for-profit institutions serving veterans and receiving federal Title 38 funds, regardless of accreditation status, are required to obtain BPPE approval by January 1, 2016. (Education Code Section 94800 et seq.)
- 2) Establishes the STRF, administered by the BPPE, to relieve or mitigate economic loss suffered by students enrolled at a non-exempt private postsecondary education institution due to the institutions' closure, the institutions' failure to pay refunds or reimburse loan proceeds, or the institutions' failure to pay students' restitution award for a violation of the Private Postsecondary Education Act. STRF is capped in statute at \$25 million. Institutions are required to assess students an amount established in regulation by the BPPE and remit fund to the BPPE for STRF. In 2010, that amount was established at \$2.50 per \$1,000 of tuition charged. In 2013, that amount was reduced to \$0.50 per \$1,000. In 2015, this amount was reduced to \$0.00, as the STRF had exceeded the statutory cap (STRF is currently at approximately \$28 million). (Education Code Sections 94923 to 94925)

FISCAL EFFECT: Unknown. Based on the Senate Appropriations Committee analysis of prior similar legislation:

- 1) Restoration of Financial Aid Award Years: Approximately \$9.6 million to restore Cal Grant awards for affected students for two years (\$7.9 to restore one year and \$1.7 to restore the second year). (General Fund)
- 2) Local Assistance Grants: \$1.3 million appropriation from the STRF. (Special funds)

COMMENTS: *Background on CCI.* CCI institutions (Heald, WyoTech, and Everest) offered a range of programs, including certificate programs, with tuition and fees that ranged from \$13,100 to \$75,384. According to a 2014 complaint filed by the Consumer Financial Protection Bureau

(CFPB), most students attending CCI were low-income, or the first in their families to seek an education beyond high school. Most students attending CCI received federal financial aid; according to CCIs filing with the Securities and Exchange Commission, CCI received 84.8% of net revenue from federal financial aid (Title IV: Pell Grants and Federal Loans).

In October of 2013, AG Kamala Harris filed a lawsuit against CCI (that contained a range of allegations about deceptive marketing and job-placement claims, in violation of a 2007 judgment. In August of 2014, the California State Approving Agency for Veterans Education (CSAAVE) withdrew institutional approval at all institutions owned and operated in California by CCI. The 23 campuses (Heald, WyoTech and Everest) were prohibited from receiving GI bill benefits. In order to continue using Title 38 benefits, veteran students were required to transfer/enroll in a CSAAVE eligible school.

On April 14, 2015, the USDE announced a \$30 million fine against Heald's Salinas and Stockton campuses for fraudulent placement and other advertising (CCI appealed this fine). The decision effectively barred all Heald campuses from receiving federal funds for new enrollments. On April 16, 2015, the California Student Aid Commission (CSAC) permanently terminated Heald's eligibility for the Cal Grant program (Everest and WyoTech were already not eligible). On April 17, 2015, the BPPE issued an emergency decision prohibiting Everest and WyoTech campuses from enrolling new students. CCI closed all campuses on April 26, 2015, and filed bankruptcy on May 4, 2015.

On March 23, 2016, the AG announced that the San Francisco County Superior Court of California issued a \$1.1 billion default judgment against CCI, finding, among other things: many of CCI's representations and advertisements related to job placement were untrue and/or misleading, dating back to at least 2009; CCI knowingly advertised programs, since 2010, that it did not offer; CCI unlawfully used military seals; enrollment agreements contained unlawful clauses; CCI engaged in unlawful debt collection and failed to disclose its role in the Genesis Private Student Loan Program; and, CCI misrepresented the transferability of credits.

Background on relief options for students.

- 1) *STRF*. The STRF, administered by the BPPE, is funded by students enrolled in institutions regulated by the BPPE and provides for reimbursement to students for economic loss due to the closure or illegal activity of a regulated institution. According to BPPE, California students enrolled in a California WyoTech and Everest campus within 120 days of closure are eligible for STRF. California CCI students enrolled in Heald and Everest Online are not covered by STRF as those CCI institutions were not regulated by BPPE. Unlike federal loan forgiveness, STRF provides for partial refunds if students transfer some of their credits to another institution.

In 2015, USDE took action to expand the closed school loan discharge eligibility to students enrolled as far back as June 20, 2014. The USDE action made California veteran students eligible for closed school loan discharge. BPPE has not yet taken such a similar action.

For the CCI students that are eligible for STRF (enrolled within 120 days of closure) application and approval rates are low. According to BPPE data, of the estimated 1,586 WyoTech students eligible for STRF, only 34 STRF applications have been approved. Of the estimated 4,336 Everest students eligible for STRF, only 75 applications have been approved. Fewer than 350 total students have applied.

- 2) *Federal loan forgiveness.* The USDE has announced expanded loan forgiveness options for CCI students who were affected by the closure or by the unlawful practices of the institution. As it currently stands, the following students are eligible to apply for student loan discharge: 1) students who can show that CCI violated state law (Heald students in most programs between 2010 and 2014 have been deemed eligible by USDE to apply through an expedited loan forgiveness pathway; Everest and WyoTech students in most programs between 2010 and 2013, an expedited application pathway is pending); and, 2) students who were enrolled after June 20, 2014. The USDE has indicated additional eligibility and financial aid relief may be established.

On March 25, 2016, USDE announced it had received 11,740 closed school loan forgiveness claims, and, as of March 1, 2016, granted relief for 6,838 students; and has received 11,000 borrower defense claims (8,501 from CCI students) and has approved 2,048. Rough estimates place the number of students eligible for loan forgiveness at about 350,000 students. Since the time of CCI closure, USDE has sent email communications to over 54,000 former-Heald students to inform them of their loan discharge eligibility; the average open rate for these email campaigns is approximately 40%. USDE is in the process of starting similar email campaigns for former WyoTech and Everest students.

Local assistance grants. CSOs are currently working to assist students harmed by the fraudulent activities and illegal closure of CCI (and other closed institutions such as Four-D College and Marinello Schools of Beauty). Unfortunately, funding cuts to these programs have reduced the ability of local organizations to meet student demand for services. This bill would provide \$1.3 million in funding to local community based organizations to provide services to students, including:

- 1) *Outreach and education* for students and borrowers to understand their options. For example, the Legal Aid Foundation of Los Angeles (LAFLA) hosted two loan workshops for over 60 students following the closure of Marinello, in order to help students complete understand their rights and options.
- 2) *Case intake and evaluation* services to determine the particular facts of a student's situation and provide advice about next steps. For example, students often have multiple loans. Their rights depend on the types of loans they have. Even within government loan programs (FFEL, Direct, Consolidation, or Parent Plus), rights depend on the history of the loans, who holds the loan, and the date loans were taken out. Private loan rights also depend on the terms of the loan and the applicable state law.
- 3) *Assistance and representation* to ensure relief for students, once a student's rights and options are determined. For example, according to LAFLA:
 - a) For Federal Loans:

Statutory loan discharges. Closed school, false certification, unpaid refund, and disability discharges generally require extensive corroborating evidence that must be obtained from USDE, schools (if they still exist), BPPE, and other sources. Although closed school and disability discharges usually require less evidence, most students are confused and daunted by the complicated discharge applications.

Defense-to-repayment relief. Borrowers may request a cancellation of their federal loans if their schools engaged in state law violations. To obtain this relief, they must produce sufficient evidence to make a prima facie case under state law. While USDE has provided a streamlined process for some Heald students, little guidance has been provided regarding the procedures, evidence, and standards required for these claims for different types of loans for WyoTech, Everest and other institutions where students were defrauded.

Options after default. If a borrower is in default, he/she may be able to get out of default and obtain an affordable repayment plan through consolidation or rehabilitation. But only certain loans are eligible for consolidation and rehabilitation. For example, if a loan has been reduced to a judgment, the borrower will not be able to get out of default through consolidation or rehabilitation unless the judgment is set aside. LAFLA works to negotiate vacation of the judgment.

Income-based repayment plans. Borrowers must get out of default before they can obtain income-dependent repayment plans. In addition, some loans, such as Parent PLUS loans, are not eligible for the income-based repayment plans, but can eligible for one type of income-dependent repayment plan after consolidation.

Pro-per assistance. CSOs help clients complete and submit their own applications, including through clinics, when the process is sufficiently accessible. If the process is too complicated, CSOs will represent the borrower.

- b) In private loans borrowers have fewer options. CSOs evaluate all private loan cases for potential defenses, which include statutes of limitation, defenses-to-repayment based on school misconduct (if a holder notice is included in the promissory note), etc. If borrowers have a defense, CSOs help them to assert it through demand letters and, if necessary, litigation. CSOs also defend borrowers who are served with private student loan collection lawsuits. CSOs can assist students who are being harassed by private collection agencies.
- 4) *Follow-up and appeals* are often necessary, for even the simplest of cases. For example, according to LAFLA, a CCI client received a denial from the loan servicer for his closed school loan discharge application because the servicer had "no record of the school closing." An appeal was filed and, after negotiations with the loan servicer's general counsel, the servicer fixed the problem and granted the discharge. The servicer also went back and reopened all cases involving CCI students.

Prior Legislation and Governor's Veto. AB 573 (Medina, 2015) was substantially similar to this bill. In vetoing AB 573, Governor Brown stated, in part, that USDE "has taken the matter of loan discharge seriously. In recent months, it has greatly eased the burden of filings for many students, and its work to provide a simple, swift and fair process for students continues. As such, it appears premature to create an attorney grant program, especially one that provides little direction on how funds should be used. While the bill's provisions to extend Cal Grant eligibility for Heald students are well-intentioned, I am not comfortable creating new General Fund costs outside of the budget process, particularly given the Cal Grant augmentations already included in this year's budget."

Author's statement. According to the author, "this bill will provide vital funding to local organizations to help students with the loan forgiveness and tuition recovery process. Since Governor Brown's veto of AB 573, only a fraction of students eligible for loan discharge and tuition recovery have submitted claims; of those who have submitted claims, even fewer students have had claims successfully approved. This is clear evidence that existing efforts by USDE and BPPE are insufficient to ensure students receive the benefits to which they are entitled."

According to the author, "helping California students cancel as much of their student debt burden as possible will be good for these students, cost the state of California very little, and provide benefits now and in the future to California's economy."

The author further notes that this bill "will restore California education grant eligibility for students by providing up to 2 years of restoration in the Cal Grant and California National Guard Educational Assistance programs. This will ensure approximately 3,400 Heald students are not harmed by the award year limitations in these programs." Committee staff understands, in response to the Governor's veto statement, the author and other members of the Legislature are concurrently working to request this provision be included in the Budget Act.

Arguments in support. According to The Institute for College Access and Success (TICAS), very few eligible students have received loan relief from USDE. Among Heald students, whom have had an expedited relief process available since June of 2015, only 16% (when looking at the best possible interpretation of the available figures) have received discharge under closed school or borrower defense provisions. In California, while BPPE reports having contacted 80% of former STRF-eligible students, only 7% have applied for STRF relief. According to TICAS, "to put these low shares into further perspective, a California Superior Court last week concluded that every former Corinthian student in California since 2010 deserves restitution due to the company's unlawful and predatory practices." TICAS notes that there is no evidence that students are foregoing relief because they do not need it; many eligible students are not aware that relief is available. Further, TICAS notes that many students do not receive relief because the process for determining eligibility and applying for relief is complex. According to TICAS, AB 2581 would facilitate students' access to relief by providing funding to nonprofit organizations that can conduct on-the-ground outreach and provide the assistance that the students need.

Possible amendments. Since the closure of CCI, two other California colleges have closed unlawfully and abruptly. In July of 2015, Four D College shutdown; according to BPPE data, 620 students were enrolled at the time of closure. Only 55 former-Four D students have filed STRF claims, and only 17 have had claims approved. On February 4, 2016, Marinello Schools of Beauty ceased operations. The closure affected approximately 3,200 students in California that are likely eligible for STRF and federal Closed School loan discharge.

Currently this bill requires unused grant funds to be returned to the STRF. Instead, the author and committee may wish to authorize CSOs, with the approval of the AG, to use grant funding to provide assistance to students affected by other school closures. Additionally, the author and committee may wish to update the findings and declarations to reflect the most recent CCI student loan eligibility and application data available from USDE.

BPPE Sunset Review. BPPE is currently undergoing the Sunset Review process. The issue of STRF and outreach to students is raised in the BPPE Sunset Review report. The report makes a series of recommendations, including establishing a student advocate within DCA/BPPE to work

with students and CSOs to provide outreach to students. The author and committee may wish to raise the proposals included in this bill through the 2016 Sunset Review process, as appropriate.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers
Center for Public Interest Law
Children's Advocacy Institute
Consumer Federation of California
Consumers Union of United States, Inc.
East Bay Community Law Center
Faculty Forward Network
Housing and Economic Rights Advocates
Legal Aid Foundation of Los Angeles
The Institute for College Access and Success
Public Advocates
Public Counsel
Public Law Center
Veterans Legal Clinic

Opposition

None on File

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