

TO: Institutional and Programmatic Negotiating Committee
FROM: Barmak Nassirian
Date: 2/25/2022
Subject: Private-Label Loan Cancellation Proposal
Certification Regulations

One of the more abusive practices against victims of predatory schools has been the problem of private-label loans, made either by institutions or by lenders with a business relationship or common ownership with the schools. Even when federal policy clearly recognizes that school misconduct or closure justifies providing relief to victims in the form of discharging their federal loans, predatory private debt can continue to hound victims in the hands of bankruptcy trustees, receivers, and debt collectors. For example, after the closure of the school, the receiver for Education Corporation of America (owner of Brightwood College and Virginia College) sold \$37 million of institutional debts to a debt collector because the receiver felt required to bring in as much money as possible for other creditors. However, private equity backers of the school had priority to receiver essentially all money that the receivership collected. A school that precipitously closed or committed other misconduct resulting in federal loan discharge should be prevented from collecting upon or selling any institutional or affiliated debts. There is a strong federal interest in these loans, which are typically part of award offers with significant amounts of federal aid.

In 2020, the state of [Maryland enacted a law](#) on a wide bipartisan basis that requires the addition of language to institutional private-label promissory notes that automatically cancels all forms of private debt for students attending schools that close precipitously. I would urge the Department to incorporate similar language in the certification regulations. Unlike the Maryland law, which needed extensive definitions that did not exist elsewhere in Maryland code, a similar federal provision can simply tie the automatic voiding of institutional loans and other affiliated private debt (loans and ISAs made by parties affiliated with, owned by, or guaranteed by the school) to instances of school closure or misconduct that trigger closed-school or borrower-defense discharges for all students in attendance within the timelines specified for relief.

"The institution shall ensure that any non-federal aid offered to its students contains language stating that in the event of a precipitous closure or a finding that results in the discharge of federal loans for its students, any loans, balances, or other repayable aid made by the institution or by parties affiliated with, owned in whole or in part by, or guaranteed by the institution shall be void and shall not be recovered, collected, sold, or enforced."