



BITTERSWEET RELIEF

Strengthening California's Tuition
Recovery Fund to Better
Support Students

ACKNOWLEDGMENTS

The Institute for College Access & Success (TICAS) is an independent, nonprofit, nonpartisan organization working to make higher education more available and affordable for people of all backgrounds. To learn more about TICAS, visit ticas.org and follow us on Twitter at @TICAS_org.

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TABLE OF CONTENTS

Introduction.	4
STRF’s Statutory Background	5
Effects of School Failures on Students.	5
STRF Has Been Underutilized.	6
Which Students Are Eligible for STRF relief?	8
What losses does STRF compensate for?	10
Applying for STRF.	10
Relief for Corinthian Students and the Role of STRF.	12
Policy Recommendations	14
Conclusion.	19

INTRODUCTION

Students suffer extreme hardship when their postsecondary education is interrupted or significantly devalued by school closure or misconduct. Private postsecondary education in particular can cost tens of thousands of dollars in tuition, fees, equipment, and required materials. These considerable expenses constitute only part of the economic harm experienced by students of failed schools, who must also pay for housing, transportation, childcare, healthcare, and other basic needs that allow them to attend school. Students attending school to improve their future opportunities regularly forgo employment to pursue their studies and may exhaust financial assistance such as grants or fellowships on a failed education, putting legitimate educational opportunities out of reach.

Most private postsecondary students use federal loans and grants, as well as an often smaller, but still significant, amount of private student loans, to pay for their education. These loans must be repaid with interest, often over decades. When schools fail, the students are left without access to the improved employment opportunities afforded by a legitimate postsecondary education, and these debts can become a life-altering burden.

Under the Higher Education Act, the Department of Education allows for discharge of federal student loan debt in cases of school closure and misconduct.¹ These programs provide eligible students with pathways to relief for federal student loan debt. While Secretary of Education Betsy DeVos has openly expressed the current administration's desire to scale back these student relief programs, state attorneys general and student legal advocates have had recent success in forcing the Department of Education to continue them under existing law and regulations.²

California's Student Tuition Recovery Fund (STRF) is a state-managed fund intended to relieve or mitigate the financial distress suffered by students who enrolled in private postsecondary institutions that close or commit misconduct. STRF is administered by the Bureau for Private Postsecondary Education (BPPE) and is available to students who were California residents at the time that they enrolled in an institution licensed by BPPE.³

With some exceptions, schools licensed by BPPE include privately owned schools physically located in California that offer postsecondary education to the public for a charge and are not approved by an accreditor referenced in state statute.⁴ In the most recent published annual summary from 2016, BPPE reported licensure of approximately 1,040 private postsecondary institutions, enrolling over 450,000 students.⁵

STRF was designed to give relief to students enrolled in schools that close, but it has the potential to help students in other ways as well. STRF could be used to supplement the federal student loan relief available to similarly situated former students under the discharge programs by providing financial compensation to students who fall through the gaps of federal loan discharge eligibility. It could also

be used to compensate students whose economic losses exceed their federal student loan debt, including payments out-of-pocket, private student loan debt, and the loss of student grant eligibility.

Unfortunately, thus far STRF has only provided financial relief to a relatively small number of students affected by school failure. While STRF has the potential to be a critical resource for California students harmed by failing schools, it is clear that improvements to visibility and accessibility to students are needed in order to accomplish that goal. This report examines the history of STRF and student loan forgiveness programs, describes the impact of school closures on students, and provides policy recommendations informed by student testimony and interviews conducted with legal aid providers and state government representatives.

STRF'S STATUTORY BACKGROUND

STRF was first established by the Legislature in 1978⁶ and was expanded under the Maxine Waters School Reform and Student Protection Act of 1989.⁷ The California Postsecondary Education Act of 2009 reauthorized STRF and placed its administration under the purview of the newly created regulatory body for private postsecondary education, BPPE.⁸ The Act directed BPPE to adopt formal regulations establishing procedures to effectuate STRF's purpose.⁹

The Act, including provisions related to STRF, was amended in 2016.¹⁰ One of the most important 2016 amendments established the Office of Student Assistance and Relief (OSAR) within BPPE, to "advance and promote the rights of private postsecondary educational institution students."¹¹ OSAR's specific statutory duties include conducting outreach to students who have been affected by the "unlawful activities" or closure of a school and giving these students individual assistance to make sure that they "successfully access available state and federal relief programs."¹²

EFFECTS OF SCHOOL FAILURES ON STUDENTS

California has seen an unprecedented spike in private postsecondary school closures over recent years, most notably at for-profit institutions with a well-documented history of misconduct towards their students. These closures include the 2015 closure of the California campuses of Corinthian Colleges, Inc. (including Heald, Everest, and WyoTech colleges), which enrolled more than 11,000 students in California at the time of closure,¹³ and the 2014 closure of Marinello Schools of Beauty and 2016 closure of ITT Technical Institute, which each enrolled more than 6,000 California students during the year before their closure.¹⁴ Other notable closures of for-profit institutions in recent years include Westwood Colleges,¹⁵ Brightwood Colleges,¹⁶ and Argosy University.¹⁷

The closure of these institutions obviously affects students who were unable to complete their degree. However, the students who attended these failing schools prior to their closure also suffer substantial harms. As discussed later in this report, many of these schools closed as a result of poor performance and misconduct toward students that predated their closure. Students who attended failing for-profit colleges consistently report that they are unable to transfer their credits to a legitimate institution after school closure, and even those who complete their degrees from these schools often find that their degrees are more of a hindrance than a help.

"[I] [w]as told our classes are all fully accredited to any and all schools except for a few [I]vy [L]eague campuses. Tried furthering me education at Cypress Community College, and found out not a single credit from my ITT education could transfer over, so its basically as if you never went to ITT and have to start from scratch all over again."¹⁸

—Former student of ITT's Anaheim campus

"I have been laughed at during job interviews from Raytheon, Lockheed Martin, [TEKsystems], Robert Half [Technology], IGT gaming. I was given professional advice from an AT&T recruiter to remove my involvement with ITT Tech from my resume."¹⁹

—Former student of ITT's San Bernardino campus

Students of failed schools are usually unable to get compensation from the schools themselves. For example, both Corinthian and ITT closed in the face of federal and state enforcement actions that implicated years of misconduct, and both filed for Chapter 11 bankruptcy protection shortly after their closure.²⁰ Harmed students must usually look to federal loan discharge programs and STRF for help.

STRF HAS BEEN UNDERUTILIZED

STRF is funded through assessments collected from students by BPPE licensed institutions, which the schools then pass to BPPE.²¹ In effect, a student's STRF assessment operates as affordable payment towards insuring their economic losses in the event that their school fails. BPPE has the authority to set the amount of the assessment to be collected from each enrolling student, but the total amount of the fund cannot exceed \$25 million.²² Once the \$25 million limit is reached, BPPE must stop collecting assessments until the fund falls below \$20 million as a result of relief paid to injured students.²³

STRF has exceeded its statutory limit since 2014, at which time the balance exceeded \$28 million. BPPE eventually ceased collecting STRF assessments (then fifty cents per \$1,000 of tuition fees) in 2014. However, because so little STRF relief has been issued to students, the fund balance has never

substantially lowered, and as a result no assessment has been collected since that time. At present, despite a number of large school closures, the STRF balance still exceeds \$25 million.

Fiscal Year	STRF Balance Reported by BPPE ²⁴
2012–2013	\$22,238,000
2013–2014	\$28,365,000
2014–2015	\$28,518,000
2015–2016	\$29,626,000
2016–2017	\$28,497,000
2017–2018	\$26,295,000
2018–2019	\$25,100,695

Because the number of students who annually submit STRF applications to BPPE constitutes just a small fraction of potentially eligible students, STRF—despite its important role in providing relief to injured students—has been underutilized. BPPE does not publish consistent data regarding the number of institutions or school closures or affected students, but the available data indicate that the number of students who receive or even apply for STRF relief in any given year represents an alarmingly small percentage of the students who have been impacted by closure.

In the 2015–16 fiscal year, for example, BPPE reported the closure of 209 supervised postsecondary institutions, branches, or satellite locations, together enrolling 5,490 students.²⁵ However, during this same period, BPPE reported receiving only 628 STRF applications, and approving only 295.²⁶

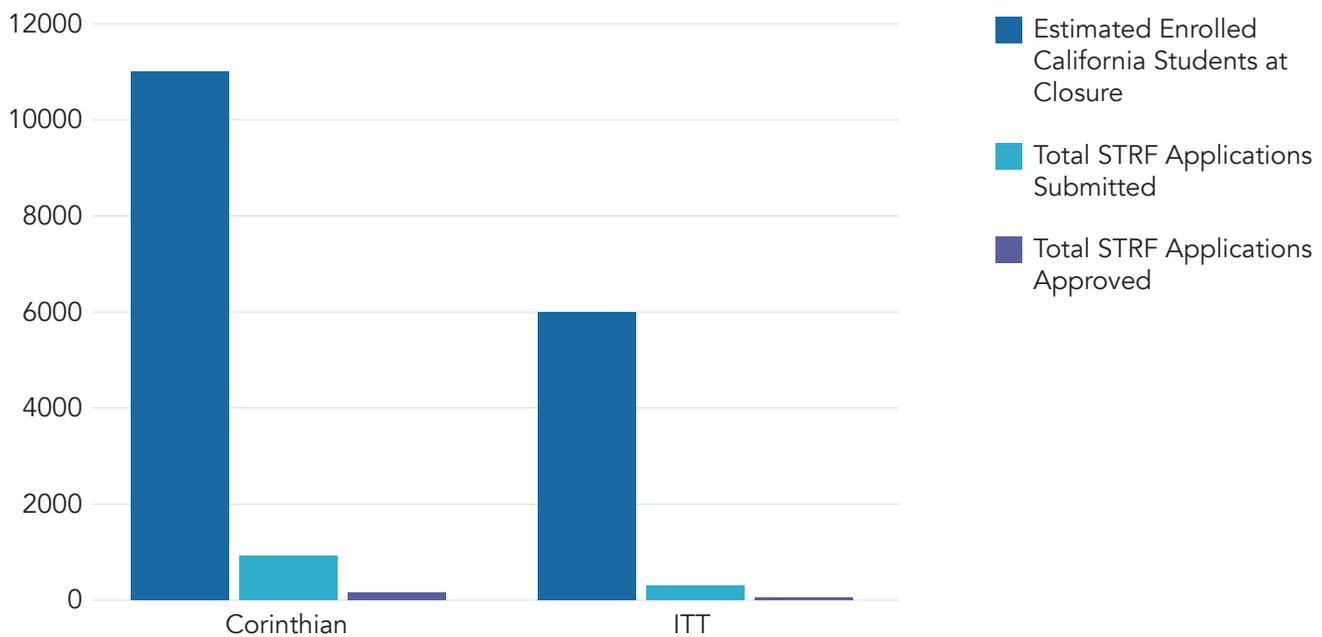
Another telling indication of STRF’s underutilization is the dearth of applications and approvals for students impacted by two of the larger private postsecondary school closures in the recent past, Corinthian and ITT.

Interviews with legal services providers on their experiences helping students of failed private postsecondary institutions suggest that the low number of STRF applications submitted by students is more likely the result of a lack of student awareness about the program, rather than a lack of need for relief.

“Students whose schools close usually come to us only after their loans go into repayment around six months after they leave school. None of these students know about STRF. Even when I explain the process, they are confused about the differences between federal discharge relief and STRF relief.”²⁷

–Staff Attorney, Legal Aid Foundation of Los Angeles

Enrollment and STRF Claims at Corinthian Colleges and ITT Technical Institute²⁸



WHICH STUDENTS ARE ELIGIBLE FOR STRF RELIEF?

Students Who Are Unable to Complete Their Programs Because of Closure

California students who were enrolled in an institution, a location of an institution, or in any program of an institution licensed by BPPE at the time it closed are eligible for STRF relief,²⁹ as long as they did not subsequently participate in a “teach-out plan.”³⁰ BPPE’s guide for students of closed schools additionally warns students that they will lose their STRF eligibility if they complete their degree through a teach-out.³¹ Students who were enrolled in the institution or program within 120 days before the closure, but withdrew before completing the program are also eligible.³²

These students are also generally eligible for a full closed school discharge of their federal student loans by the Department of Education under the Closed School discharge program.³³ Students in California can further supplement this relief by applying to STRF for “economic losses” that exceed their federal student loan debt, such as tuition and expenses paid with private student loans, savings, or scholarships and grants.³⁴ Additionally, although federal student loan discharge is not available to students whose program of study is discontinued by their school if the school itself remains open, those students are eligible to apply to STRF to pay off their federal loan debt in addition to their other economic losses.³⁵

The quality of education and institutional reputation at a failing school often deteriorates long before closure, and too often recent graduates discover that their degrees are not respected by potential

employers or acknowledged by other schools after the school closes. California law therefore also makes STRF relief available to students who were enrolled at an institution more than 120-days before its closure, if BPPE “determines there was a significant decline in the quality or value of the program.”³⁶

The statute does not state that a student that finished their degree during a period of significant decline would be ineligible for STRF. In fact, such a finding by BPPE would evidence that a student could find her degree to be of limited value. However, in the past BPPE has suggested that such students may be considered ineligible because they obtained their degree and therefore are not considered to have suffered an “economic loss,”³⁷ a policy which risks excluding harmed students who should be eligible for relief.

Students Whose Schools Engage in Misconduct and Illegal Acts

Although the information that BPPE has posted online for students related to STRF primarily references eligibility for students of closed schools,³⁸ by law STRF relief is available to a far broader category of impacted students. The relevant statute lists additional categories of potentially eligible students related to misconduct and grants BPPE discretion to expand relief to other students it “deem[s] appropriate.”³⁹

Students who have been awarded compensation for school misconduct through formal or administrative adjudication, but are unable to collect the judgment from the institution, are specifically entitled to STRF relief to compensate their economic losses.⁴⁰ These awards include judgments by a court or arbitrator, as well as refunds ordered by BPPE after investigation of student complaints.⁴¹

BPPE has also enacted regulations that specifically provide for STRF compensation to students where a law enforcement agency such as BPPE or the California Attorney General obtains a judgment or administrative order against an institution, but it is unable to collect on it because of the school's closure and insolvency.⁴² The regulations place additional limitations on STRF recovery under these circumstances, however, including that the law enforcement agency must have filed a STRF claim within two years from when the judgment became final and that the claim must indicate the amount of the judgment allocated to each student.⁴³

STRF compensation is also available to students where their school has received loan proceeds on their behalf in excess of the amount required by tuition and other institutional costs but has failed to return these proceeds to the student.⁴⁴

Federal student loan relief from the Department of Education is available to harmed students through the Borrower Defense and False Certification Programs,⁴⁵ although these programs differ in scope and effectiveness. Students who can establish that their schools misled them or engaged in other misconduct against them in violation of state law can apply for a Borrower Defense discharge of their federal student loan debt, and students who obtain a contested judgment against their school are presumptively eligible for loan cancellation.⁴⁶

WHAT LOSSES DOES STRF COMPENSATE FOR?

STRF compensates students for “economic loss,” which is currently defined by statute as a student’s tuition and any other charges for the educational program that are paid directly to the institution, as well as the cost of equipment and materials required for the educational program and any license or examination fees the student paid to the institution.⁴⁷

Students can also obtain STRF relief for “educational opportunity losses,” which are narrowly defined as a loss of third-party payer educational benefits—such as grants or veterans’ benefits—because the student exhausted these benefits while attending a failed school.⁴⁸ When BPPE awards “educational opportunity loss” compensation to a student, rather than give the student cash compensation, it grants the student a “credit” that it agrees to pay to another eligible institution on the student’s behalf if and when she provides evidence that she has enrolled and is attending.⁴⁹

Unfortunately, students cannot presently receive STRF compensation for the myriad of other financial losses resulting from the closure or misconduct of their school, even where the student’s actual economic loss has already been decided by a court or arbitrator. Application fees, school supplies, room and board, and transportation are currently excluded from compensation.⁵⁰ Pending state legislation may expand the definition of economic loss to include these and other expenses.⁵¹ However, given the difficulty obtaining financial records from closed schools, it is essential that the application and documentation not prevent students from receiving the benefit.

APPLYING FOR STRF

Former students seeking compensation from STRF must submit a nine page application form by mail, which must be received by BPPE within four years of the date of the “action or event” that made them eligible for relief.⁵² Unfortunately, BPPE does not clarify what constitutes the “action or event” that starts the limitation period, an oversight which may deter students considering whether to apply to STRF. Creating further confusion is the fact that this four-year limitation is waived where a student is seeking relief from a school-related debt that has been “revived” by a creditor, where a creditor reasserts its demand for a debt after a period of non-collection.⁵³

The STRF application requires students to provide substantial documentation related to their education and “economic losses,” including receipts from the school or school statements showing student payments toward tuition by cash or through loans or grants.⁵⁴ Prior to closing, a California private postsecondary institution is legally required to provide BPPE with a plan to make essential student records available to students through a third party, such as a custodian of records, or to provide these documents directly to BPPE.⁵⁵ When a school meets these requirements records can be easier to

obtain. Even in these cases, however, access to records can be limited and too often schools do not comply with these records requirements. It is sometimes impossible for students to obtain payment records from their school following its closure.

"Students don't always know that they need all of their school documents in time to get them. After Corinthian closed all of its documents were sent to a warehouse managed by the trustee for the bankruptcy. Many of our clients have sent requests to the trustee for documents to support their STRF application, but these documents are rarely provided."⁵⁶

–Staff Attorney, Legal Aid Foundation of Los Angeles

"One student I helped with an application had attended a mom-and-pop beauty school that closed and they appointed themselves custodian of records. They blamed him for the school's closing because he made a complaint against the school to BPPE and wouldn't give him any of his records."⁵⁷

–Former Staff Attorney, Housing and Economic Rights Advocates

Even when a student is able to document their specific economic losses under STRF guidelines, the process of obtaining relief can be cumbersome. Economic loss as applied to student loan debt is calculated in part by the amount of accumulated interest and fees, as well as any payments the student makes on the loan.⁵⁸ These amounts change monthly, and in order to process a STRF application BPPE needs updated statements from creditors during the months required to process their STRF applications. STRF regulations provide that BPPE may negotiate with a student loan creditor for the full compromise of student loan obligations and may then pay a student's claim directly to the creditor.⁵⁹ In other words, BPPE has the authority to obtain these updated statements and communicate directly with the creditors to assist students with their applications. However, legal services organizations assisting students on their STRF applications report that BPPE generally requests that students communicate with their creditors and obtain loan documents related to their application themselves. If students do not respond to BPPE's request for additional documents, their applications stall.⁶⁰

Another complicating issue in establishing economic loss is that a student must show that they applied for—and were denied—discharge by the Department of Education before they can receive STRF relief for their federal student loan debt.⁶¹ This requirement was designed to avoid exhausting STRF funds on relief that is otherwise available through federal discharge programs and to prevent double recovery. However, under the Trump Administration, the Department of Education has severely curtailed its issuance of federal student loan relief beyond closed-school discharge. A lawsuit filed on behalf of federal student loan borrowers in June 2019 alleges that the Department has essentially abdicated its responsibility to review Borrower Defense discharge applications, and that approximately 150,000 students who have applied for relief discharge as long as four years ago remain in limbo as a result.⁶²

The Department of Education's delay in making decisions on federal student loan discharge applications has delayed both federal and state relief to harmed students. However, BPPE can still take steps to provide STRF relief to these students for economic losses that are not covered by federal student loan discharge, like out-of-pocket costs, private student loan debt, and grants.

RELIEF FOR CORINTHIAN STUDENTS AND THE ROLE OF STRF

In April 2015, Corinthian abruptly closed its California campuses. At the time of its closure, approximately 11,000 California students were enrolled in its Heald,⁶³ WyoTech, and Everest College campuses.⁶⁴ Although the state Private Postsecondary Education Act requires a failing private postsecondary school to provide notice to BPPE at least 30 days prior to closure and to develop a plan for providing teach-outs or to provide refunds to students,⁶⁵ Corinthian failed to meet any of these requirements during its precipitous closure.

Several weeks before its closure, the Department of Education fined Corinthian more than \$30 million and barred two of its California campuses from participating in the federal Title IV student loan program, after finding that Corinthian significantly misled students about their likelihood of obtaining employment after completing their degree.⁶⁶ At the time, Corinthian was also facing lawsuits by the California Attorney General⁶⁷ and the federal Consumer Financial Protection Bureau⁶⁸ alleging deceptive recruitment practices and misconduct toward students related to the private student loans that it originated and collected.

Corinthian filed for Chapter 11 bankruptcy protection several weeks after its closure, leaving students with little recourse to seek refunds or compensation from the school.⁶⁹ Unfortunately, it made no provision to make student records available to former students. Corinthian students can currently obtain a copy of their transcript through BPPE, but all other records—such as enrollment agreements and student account histories—were warehoused through the bankruptcy, and many were eventually destroyed.⁷⁰

The California Attorney General later obtained a judgment against Corinthian on behalf of California students who enrolled in its schools from 2010 to the date of its closure.⁷¹ The judgment included restitution to students for losses suffered by students, including tuition and related federal and private student loan debt. In total, the judgment covered approximately 38,000 California Corinthian students, including the roughly 11,000 in attendance at the time of closure.⁷² As a practical matter, however, Corinthian's dissolution and bankruptcy meant that almost none of the restitution awarded under the judgment was paid to students. The California Attorney General was later able to reduce the private student loan burden for many of these students by reaching settlements with the primary creditors for these loans.⁷³

Corinthian students who were unable to complete their degrees because of the closure were able to apply individually for a closed school discharge of their federal student loan debt. In 2018 states and student loan advocates successfully sued to force Secretary of Education Betsy DeVos to implement federal student loan discharge rules finalized under the prior administration, and the Department of Education issued automatic federal loan discharges to all Corinthian students who were eligible for closed school discharge but had yet to apply.⁷⁴

Under the Obama Administration, the Department of Education also created a streamlined process for students who were not eligible for federal closed-school discharge but attended Corinthian during the periods identified in the attorney general's judgment to apply for borrower defense discharge of their federal student loans.⁷⁵ Although thousands of former Corinthian students applied for and received full federal loan discharges under this program,⁷⁶ the Trump Administration has refused to continue it, first halting it entirely⁷⁷ and then, after lawsuits were filed by Corinthian students and the California attorney general, attempting to reduce the amount of debt it would discharge.⁷⁸ These lawsuits are still pending, leaving Corinthian students who applied for borrower defense discharge in limbo.

The patchwork of federal and private student debt relief offered to Corinthian students mitigated some of their losses, but left others uncompensated. These losses include remaining private loan debt, out-of-pocket payments to Corinthian, and a loss of third-party benefits like grants and scholarships. Since BPPE's current regulations specifically provide for STRF compensation to students where the California Attorney General obtains a judgment against an institution but is unable to collect it, students who were unable to complete their programs because of the closure and those who did but are otherwise covered by the judgment are eligible for STRF relief. However, of the tens of thousands of California students affected by Corinthian's misconduct and collapse, BPPE reports receiving only 911 applications for STRF relief from these students since the schools' closure in 2015.⁷⁹ Of these claims, BPPE has so far approved just 156, totaling \$737,092 in relief.⁸⁰

In 2018, OSAR conducted a targeted outreach campaign to former Corinthian students in order to connect with those eligible for STRF relief under the attorney general's judgment, resulting in an increase in applications received by this group of students from 30 to 103.⁸¹ While this increase is laudable, it represents only the smallest fraction of the students eligible for assistance. OSAR's webpage with information for Corinthian students does not provide any clear indication that students other than those who were enrolled in school at the time of closure are eligible for relief.⁸²

Legal service providers who have been helping students covered by the Attorney General's judgment submit STRF claims report that BPPE has been processing claims for closed school eligible students relatively quickly, in approximately three to four months.⁸³ However, they also report that, of the 39 applications they have collectively submitted on behalf of students who completed their programs, but are eligible under the Attorney General judgment, none have been approved and some have been pending for as long as nine months.⁸⁴

POLICY RECOMMENDATIONS

STRF is funded by payments from private postsecondary students with the understanding that it will be available to provide relief to these students in the event that their education is devalued through school closure or misconduct. There is no indication from the past performance of the fund that providing expanded STRF relief will exhaust it. In fact, STRF's history indicates that relatively few students apply, and interviews with direct service providers indicate that the students who do apply encounter substantial barriers in obtaining relief.

The 2016 statutory amendments that created OSAR designated the office as the "primary point of contact" for California students affected by the unlawful activities or closure of a private postsecondary institution, and for helping those students successfully access STRF and other available relief.⁸⁵ However, providing individual assistance to the thousands of California students impacted yearly by school closure and misconduct is an enormous task, and BPPE must also empower OSAR to ensure that relief gets to eligible students who need it efficiently and quickly. Several possible steps are included below.

1. BPPE should use its statutory authority to extend STRF relief eligibility to more students harmed by misconduct and illegal acts by private postsecondary institutions.

As discussed above, the Private Postsecondary Education Act gives BPPE discretion to make STRF available not only to students who attended schools that closed before they graduated, but also those whose schools have been found to have committed illegal acts and those for whom it otherwise deems relief to be "appropriate."⁸⁶ However, BPPE has rarely used this discretion to extend STRF eligibility to students who do not fit into the categories prescribed by statute, except for judgments obtained by BPPE and the California Attorney General.

BPPE's extension of STRF to California Attorney General Judgments could serve to provide relief to students beyond the Corinthian closures. For example, the California Attorney General is currently pursuing litigation against the for-profit Ashford University for illegal acts strikingly similar to those committed by Corinthian, potentially establishing STRF eligibility for harmed students if a judgment is obtained.⁸⁷

"The AG judgment area, this opens up a whole new area of opportunity for the potential of STRF to help students get back on track. It's not as easy to recover lost confidence or lost job opportunities but at least it gives them a clean slate."⁸⁸

—Staff Attorney, Legal Aid Foundation of Los Angeles

However, a California Attorney General judgment is not the only way for BPPE to identify students who were harmed by school misconduct. STRF is available to California students if there is reliable evidence

that a the institution has committed misconduct and, in particular, where the evidence shows that an identifiable group of students were subjected to misrepresentations by their school and received no benefit from their degree.

ITT Technical Institute was sued by the federal Consumer Financial Protection Bureau for misleading students about their future job prospects and ability to transfer their credits to nonprofit private or public colleges.⁸⁹ ITT students represented by student advocates later filed an action in ITT's bankruptcy that led to the discharge of private student loan debt held by the school's estate.⁹⁰ The students' claims included extensive evidence and testimony on ITT's misconduct, including lying to students that their credits were transferable and that an ITT education would help them get a job, and the harm that misconduct caused students.⁹¹

Marinello Schools of Beauty closed after an investigation by the Department of Education under the Obama Administration led it to bar Marinello's participation in the federal student loan program.⁹² The Department's investigation concluded that Marinello fabricated high school diplomas for students to make them eligible for financial aid, overcharged them for their education, and misrepresented the quality and value of its education. The Department's investigation detailed the lack of value provided by Marinello's investigation.

*"When students enrolled, Marinello staff promised the students they would receive an exceptional education taught by quality staff. Students were promised in-depth training in all areas of cosmetology, nails, and barbering. The training was to include both theory and hands-on work in the clinic; however, students repeatedly informed Department staff that they did not receive the training in all functional areas needed to obtain jobs in the field. Students also stated that Marinello staff would pull them out of theory instruction in order to work on the clinic floor and then would not provide students instruction in the material they missed as a result of their absence from class. Departmental staff interviewed Marinello cosmetology students who supposedly "graduated" yet were unable to cut hair. The Department also spoke with barbering students who could not perform all of the various cuts required to perform successfully in that field. Marinello's failure to ensure students were provided provide training sufficient to obtain jobs in their field of study provides further evidence that the institution's recertification application should be denied."*⁹³

—Director, Administrative Actions and Appeals Service Group

In an effort to make STRF relief available to more harmed students, BPPE should use its statutory discretion to provide STRF relief to students subjected to misconduct. Further, BPPE should proactively identify and conduct outreach to particular groups of injured students, based on their school, program, and years of attendance.

2. BPPE and OSAR should make it easier for students to apply for STRF.

Legal advocates report that the STRF application is a substantial barrier to students in need of OSAR's assistance. This barrier can be addressed by reducing the amount of information and the number of documents that students need to provide in their initial application, and by helping them collect the documents needed to calculate the amount of their STRF relief and advising them on related relief programs.

"BPPE is taking a friendlier stance with helping students after they submit an application but the initial application is really time consuming and is a big barrier to them applying in the first place. The language is not easy to understand, and even the most informed student I met with needed help figuring out which box to check to claim relief under the AG judgment. It is a lot for a student to go through, particularly when they don't know if they are going to get anything out of it. It would be helpful if BPPE simplified the application and allowed students to submit it first, and then BPPE could let them know what documents they needed."⁹⁴

—Former Staff Attorney, Housing and Economic Rights Advocates

OSAR representatives describe the STRF application process as having two tiers of review, the first to establish eligibility and the second to determine the amount of economic loss the student has suffered.⁹⁵ However, even before their eligibility has even been determined, students have to provide extensive information and documentation on their economic loss in their initial application.

The STRF application form requires students to identify the statutory category under which they are claiming relief, asking them not only to produce information and documentation about the payments they made to their school and the student loans and grants that they took out to pay for their education, but also to calculate how much of these funds went to tuition as opposed to other types of economic loss.⁹⁶

"The application form assumes that the student can figure out how much of the loan/grant/cash payments went to tuition versus other recoverable costs, but school accounting does not necessarily show this."⁹⁷

—Senior Attorney, Housing and Economic Rights Advocates

OSAR representatives say that they have implemented a "case management style approach to working with students which emphasizes customer support and prioritizes identifying the maximum financial relief to which a student is entitled under the current statutes and regulations."⁹⁸ However, for this approach to work, it is imperative that students are able to get applications in the door in the first place. OSAR could greatly improve access by allowing students to apply using a brief plain language application that requests only the minimum information necessary—such as the name of their school

and dates of attendance—to determine whether they are eligible for STRF relief. Feedback from service providers also indicated that it would be helpful to allow students to apply, track the status of their application, and submit any supporting documents online, rather than requiring that all communication happen by mail.

“The documentation for STRF applications can be onerous. It would be easier if BPPE accepted online and emailed applications.”⁹⁹

–Senior Attorney, Housing and Economic Advocates

By limiting the scope of the initial STRF application to establish that a student is eligible for relief, OSAR could eliminate a significant barrier for the many students who lack information about the extent and nature of their debts and losses following their schools’ failure and are therefore most in need of OSAR’s advice and assistance.

3. OSAR should take an active role in helping students complete their applications and advocating for their approval.

After a student submits their STRF application, OSAR should work with students to identify their economic losses and to obtain the documents needed to process their claims. As part of its “case work approach,” OSAR must recognize that students often struggle to obtain documents from their schools—such as enrollment agreements, receipts and account histories—and should make every effort to work with them to find alternative means of proof.

Presently, even where students receive help from legal services organizations in preparing their application, they often receive multiple requests from BPPE for additional documentation that is often unavailable or duplicated elsewhere. OSAR is in a far better position than students to know the minimum documentation needed to support a STRF application, and should avoid unnecessarily delaying relief by requesting documents from students that are duplicative or that the student has no way of obtaining.

“Currently, there is no clear standard of what financial documents are required to demonstrate a borrower’s economic loss. BPPE should be flexible with what documents students are able to obtain and OSAR should assist students to get the documents that they need (i.e., requests to the appropriate loan holder or bank statements showing payments made).”¹⁰⁰

–Staff Attorney, Legal Aid Foundation of Los Angeles

Further, as part of the STRF application process, BPPE has authorization to negotiate directly with creditors on behalf of students for a reduction the amount required to pay off the loan, to pay STRF awards directly to the creditor, and to request proof of loan cancellation as contemplated by the STRF

statute and regulation.¹⁰¹ Whenever possible, OSAR should use this authority to communicate directly with student loan creditors to get the information on loan balances, interest, and payments needed to calculate a student’s economic loss at the appropriate time in the application process.

4. BPPE and the California Legislature should ensure that OSAR has the resources to adequately fulfill its statutory duties.

In its annual report to the legislature in 2018, OSAR reported that it had developed procedures to conduct workshops for affected students when it receives notification of a pending closure and, critically, to first contact students identified on school rosters individually to notify them of the workshop and to provide individual counseling for those students who are unable to attend.¹⁰² OSAR has also greatly expanded its proactive outreach at events for current and prospective students.¹⁰³

Increased outreach activities by OSAR appear to have positively impacted the amount of STRF applications submitted by students, with 1,181 student applications received in fiscal year 2018–19.¹⁰⁴ However, BPPE only paid 116 STRF claims during this period, suggesting that the timely processing of student claims remains an issue.

Fiscal Year	Claims Received During FY	Claims in progress	Ineligible	Denied	Unable to contact	Number of STRF claims paid	Total STRF payments
2018–2019 ¹⁰⁵	1,181	1,379	0	6	24	116	\$1,027,987.00
2017–2018	385	424	1	1	15	122	\$1,253,802.00
2016–2017	765	231	135	164	65	302	\$1,609,709.63

Providing individualized assistance to students is, and should be, time intensive. OSAR’s statutory responsibilities include not only helping eligible students obtain STRF relief, but also helping them access the other relief programs that they are eligible for including federal loan discharge.¹⁰⁶ One legal services attorney interviewed for this report estimated that it takes her approximately five to fifteen hours to help a student apply for federal student loan discharge and STRF relief.¹⁰⁷

OSAR currently has eight staff positions allocated with some degree of STRF assistance—ranging from 25 percent to 75 percent—in their job description.¹⁰⁸ Given the amount of time it takes to assist a student with the application process, and the roughly 1,300 STRF applications still in progress, it is clear that this level of staffing is not sufficient to allow OSAR to provide the level of individualized assistance contemplated by the legislation that created it. BPPE and state policymakers must therefore take steps to ensure that OSAR has the resources to adequately fulfill its statutory duties and to be able to provide assistance to all impacted students.

5. BPPE should prioritize closed school student record retention and accessibility.

Schools that close without establishing reliable custodianship of student records leave students at a substantial disadvantage when they apply for STRF or certain types of federal discharge relief. Although California institutions are legally required to provide BPPE with a plan to make student records available through a third party such as a custodian of records, or to provide these documents directly to BPPE prior to closure,¹⁰⁹ in many cases the available documents are limited or unavailable, leaving students who need financial records or enrollment agreements in order to obtain STRF or federal loan discharge relief without options.

As a result, upon being notified of a school's closure, BPPE should take steps ensure that the school provides for adequate maintenance of not only transcripts, but also enrollment and accounting records that may be critical to students' ability to obtain relief. BPPE currently maintains records for more than 20 closed schools.¹¹⁰ To the extent that BPPE lacks the resources to maintain student records for every school that closes, it should at least develop minimum standards for custodians of records that ensure that students can readily obtain essential documents related to their education. Doing so will ensure that BPPE, OSAR, and students have access to the necessary documentation.

CONCLUSION

STRF is a critical resource for California students harmed by failing schools, but it is clear that improvements to visibility, accessibility to students, and eligibility are needed in order to better serve students. STRF has the potential to provide relief to many more students than are currently being served, and it is essential California takes steps to make that relief more readily available.

ENDNOTES

- 1 See e.g. 20 U.S.C. § 1087(c)(1), 34 C.F.R. § 685.214 (Closed School discharge for Federal Direct Loans); 20 U.S.C.S. § 1087e(h), 34 C.F.R. § 685.206(c) (Borrower Defense discharge for Federal Direct Loans).
- 2 Danielle Douglas-Gabriel, *Feds to Forgive Loans for Thousands of Students Whose Colleges Closed*, WASH. POST (Dec. 14, 2018), <https://wapo.st/2GlbZ>.
- 3 Cal Educ. Code § 94923(a).
- 4 Cal. Educ. Code § 94858. See also Cal. Educ. Code § 94874(i) (Institutions exempted from the Private Postsecondary Education Act include those “accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.”)
- 5 Bureau for Private Postsecondary Education, 2016 Annual Report Summary, https://www.bppe.ca.gov/annual_report/2016_summary.shtml (last visited July 21, 2019).
- 6 1978 Cal. Stats ch. 975.
- 7 1989 Cal ALS 1239, 1989 Cal AB 1402, 1989 Cal Stats. ch. 1239; 1989 Cal ALS 1307, 1989 Cal SB 190, 1989 Cal Stats. ch. 1307.
- 8 2009 Cal ALS 310, 2009 Cal AB 48, 2009 Cal Stats. ch. 310.
- 9 2009 Cal ALS 310, 2009 Cal AB 48, 2009 Cal Stats. ch. 310. See also Cal Ed Code 94923(b)(1).
- 10 2016 Cal ALS 593, 2016 Cal SB 1192.
- 11 2016 Cal ALS 593, 2016 Cal SB 1192.
- 12 2016 Cal ALS 593, 2016 Cal SB 1192.
- 13 Bureau for Private Postsecondary Education, *Sunset Review Report 2015*, Vol. 1, p. 43, available at https://www.bppe.ca.gov/annual_report/sunset2015_vol1.pdf. (“During 2015, the Bureau experienced the largest school closure to date... This closure impacted eleven Everest and two WyoTech campuses and their 4,000+ students that were enrolled at the time of the school closure. Additionally, Heald College enrolled 7,000+ students).
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- 15 Kurt Snibbe, *Westwood College Announces Closure*, THE PRESS-ENTERPRISE (Nov. 13, 2015), <https://www.pe.com/2015/11/13/higher-education-westwood-college-announces-closure/>.
- 16 Assemblymember Medina Statement on Immediate Closure of Brightwood College Campuses (Dec. 11, 2018), <https://a61.asmdc.org/press-releases/assemblymember-medina-statement-immediate-closure-brightwood-college-campuses>.
- 17 Danielle Douglas-Gabriel, *Argosy University Closes Its Doors; Students Scramble to Transfer*, WASH. POST (March 10, 2019), https://www.washingtonpost.com/education/2019/03/09/argosy-university-closes-its-doors-students-scramble-transfer/?utm_term=.c6e527708002.
- 18 Declaration of Eileen Connor in support of Class Complaint of Jorge Villalba, et al., Exhibit 10, p. 7, *Jorge Villalba, et al. v. ITT Educational Services Inc., et al.*, Case No. 16-07207-JMC-7A (Bankr. S.D. Ind.), filed Jan. 3, 2017, available at: <https://predatorystudentlending.org/wp-content/uploads/2018/02/Exhibit-10-ITT-misrepresenting-that-credits-would-transfer-670-statements.pdf>.
- 19 Id. at Exhibit 1, p. 13. <https://predatorystudentlending.org/wp-content/uploads/2018/02/Exhibit-1-ITT-degree-operating-as-a-disadvantage-in-the-job-market-521-statements.pdf>.
- 20 Danielle Douglas-Gabriel, *For-profit Corinthian Colleges Files for Bankruptcy*, WASH. POST (May 4, 2015), https://www.washingtonpost.com/news/business/wp/2015/05/04/for-profit-corinthian-colleges-files-for-bankruptcy/?utm_term=.f18bf829017c; Jim Christie, *ITT Educational Services Files for Bankruptcy to Start Liquidation*, REUTERS (Sep. 16, 2016), <https://www.reuters.com/article/us-itt-education-bankruptcy/itt-educational-services-files-for-bankruptcy-to-start-liquidation-idUSKCN11N01U>.
- 21 Cal. Ed. Code 94924.
- 22 Cal. Educ. Code § 94925(a).
- 23 Cal. Ed. Code 94925(b).
- 24 Data on STRF balances from FYs 2012/2013 is available in the meeting materials produced by BPPE for the May

- 17, 2017 session of BPPE’s Advisory Committee (available at: https://www.bppe.ca.gov/about_us/meetings/materials/20170517.pdf). STRF balances for subsequent years was provided by the BPPE to TICAS for this report.
- 25 Data available in the meeting materials prepared by BPPE for the August 17, 2016 meeting of BPPE Advisory Committee (available at: https://www.bppe.ca.gov/about_us/meetings/materials/20160817.pdf).
- 26 Id.
- 27 Interview with Josephine Lee, Staff Attorney, Legal Aid Foundation of Los Angeles, July 15, 2019.
- 28 Summary of STRF activity as of 4/29/2019 provided to TICAS by OSAR.
- 29 Cal. Educ. Code § 94923(b)(2)(A).
- 30 A post-closure program that allows students to complete their degrees at another school.
- 31 Cal. Educ. Code § 94866 (defining a teach-out as “the arrangements an institution makes for its students to complete their educational programs when the institution ceases to operate.”).
- 32 Cal. Educ. Code § 94923(b)(2)(B).
- 33 See e.g. 20 U.S.C. § 1087(c)(1), 34 C.F.R. § 685.214 (Closed School discharge for Federal Direct Loans).
- 34 Cal. Educ. Code § 94923(d); Cal. Code Regs. tit. 5, § 76200(d).
- 35 Cal. Educ. Code § 94923(b)(2)(A).
- 36 Cal. Educ. Code § 94923(b)(2)(C).
- 37 BPPE Advisory Committee Meeting Minutes for August 19, 2015, available at: https://www.bppe.ca.gov/about_us/meetings/minutes_20150819.pdf (Ms. Reiter asked if when a student graduates, and in the near future the school closes, whether STRF is available for that student. Ms. Cooney stated that the student did not suffer an economic loss due to the student obtaining their degree; therefore they are not eligible for STRF. Ms. Wenzel clarified that the Bureau reviews those cases for students who graduated within 120 days of school closure; however, most requests come from students who graduated years before closure.”)
- 38 OSAR, Student Assistance, https://www.osar.bppe.ca.gov/student_assistance.shtml (last visited July 21, 2019); Bureau for Private Postsecondary Education, Student Tuition Recovery Fund, <https://www.bppe.ca.gov/students/strf.shtml> (last visited July 21, 2019).
- 39 The language preceding the enumerated categories of eligible students reads: “The following students, and any other students deemed appropriate, are eligible for payment from the Student Tuition Recovery Fund...” Cal. Educ. Code § 94923(b)(2) (emphasis added).
- 40 See Cal. Educ. Code § 94923(b)(E)-(G).
- 41 Cal. Educ. Code § 94923(b)(E),(G).
- 42 Cal. Code Regs. tit. 5, § 76212.
- 43 Cal. Code Regs. tit. 5, § 76212(c).
- 44 Cal. Educ. Code § 94923(b)(F).
- 45 See e.g. 20 U.S.C.S. § 1087e(h), 34 C.F.R. § 685.206(c) (Borrower Defense discharge for Federal Direct Loans); 20 U.S.C. § 1087(c)(1), 34 C.F.R. § 685.216. (Unpaid Refund discharge for Federal Direct Loans).
- 46 34 C.F.R. § 685.222(b).
- 47 Cal. Educ. Code § 94923(f).
- 48 Cal. Educ. Code § 94923(d); Cal. Code Regs. tit. 5, § 76200(d).
- 49 Id.
- 50 Cal. Educ. Code § 94923(f). AB 1346, a bill to amend STRF regulations, would extend the definition of “economic loss” to include these expenses. The bill is currently pending before the California Legislature.
- 51 CA Assembly Bill 1346, available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1346.
- 52 Cal. Educ. Code § 94923(e).
- 53 Cal. Educ. Code § 94923(f).
- 54 Bureau for Private Postsecondary Education, Application for Student Tuition Recovery Fund, available at: https://www.bppe.ca.gov/forms_pubs/strf_application.pdf.
- 55 Cal. Educ. Code § 94927.5.
- 56 Interview with Josephine Lee, Staff Attorney, Legal Aid Foundation of Los Angeles, July 15, 2019.

- 57 Interview with Megumi Tsutsui, former Staff Attorney, Housing and Economic Rights Advocates, July 16, 2019.
- 58 Cal. Educ. Code § 94923(f).
- 59 Cal. Code Regs. tit. 5, § 76210(b),(c).
- 60 Interview with Josephine Lee, Staff Attorney, Legal Aid Foundation of Los Angeles, July 15, 2019.
- 61 Cal. Code Regs. tit. 5, § 76210(a) (“A student seeking reimbursement under the Fund that includes student loans as part of the claim shall make reasonable attempts to obtain a loan discharge directly from the loan holder before the Bureau will complete the processing of the student’s application for payment...”)
- 62 Erica L. Green, Education Department Has Stalled on Debt Relief for Defrauded Students, N.Y. TIMES (April 5, 2019), <https://www.nytimes.com/2019/04/05/us/politics/betsy-devos-student-loan-debt-relief.html>.
- 63 Corinthian’s Heald College campuses were exempt from BPPE licensing and STRF requirements at the time of the schools’ closure and Heald students were not initially eligible for STRF. In 2016, the California legislature extended STRF relief to Heald students retroactively through amendment of the California Postsecondary Education Act. See 2016 Cal ALS 593, 2016 Cal SB 1192, 2016 Cal Stats. ch. 593.
- 64 Bureau for Private Postsecondary Education, Sunset Review Report 2015, Vol. 1, p. 43, available at https://www.bppe.ca.gov/annual_report/sunset2015_vol1.pdf.
- 65 Cal. Educ. Code § 94926.
- 66 U.S. Department of Education Fines Corinthian Colleges \$30 million for Misrepresentation (April 14, 2015), <https://www.ed.gov/news/press-releases/us-department-education-fines-corinthian-colleges-30-million-misrepresentation>.
- 67 Complaint, California v. Heald College et al., No. 13-534793 (filed Oct. 10, 2013), available at: https://oag.ca.gov/system/files/attachments/press_releases/Complaint%2C%20filed%20stamped_0.pdf?
- 68 Complaint, Consumer Financial Protection Bureau v. Corinthian Colleges, No. 14-7194 (filed Sept. 16, 2014), available at: http://files.consumerfinance.gov/f/201409_cfpb_complaint_corinthian.pdf.
- 69 Danielle Douglas-Gabriel, For-profit Corinthian Colleges Files for Bankruptcy, WASH. POST (May 4, 2015), https://www.washingtonpost.com/news/business/wp/2015/05/04/for-profit-corinthian-colleges-files-for-bankruptcy/?utm_term=.f18bf829017c
- 70 Notice of Motion of CCI Student Creditors Trust for Entry of an Order Establishing Procedures Regarding the Retention, Abandonment, or Disposal of Student Records (October 18, 2016), available at: https://www.bppe.ca.gov/students/corinthian_court doc.pdf.
- 71 Attorney General Kamala D. Harris Obtains \$1.1 Billion Judgment Against Predatory For-Profit School Operator (March 23, 2016), <https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-obtains-11-billion-judgment-against-predatory>.
- 72 See Complaint at 2 ¶ 2, California v. Heald College et al., No. 13-534793 (filed Oct. 10, 2013), available at https://oag.ca.gov/system/files/attachments/press_releases/People%20v.%20US%20Dept.%20of%20Educ.%20FILED.pdf.
- 73 Attorney General Becerra Announces Settlement That Provides Over \$51M in Debt Relief to Former Corinthian Students in California (Aug. 18, 2017), <https://oag.ca.gov/news/press-releases/attorney-general-becerra-announces-settlement-provides-over-51m-debt-relief>; Attorney General Becerra Secures \$67 Million in Debt Relief for Defrauded Former Corinthian Students in California (June 14, 2018), <https://oag.ca.gov/news/press-releases/attorney-general-becerra-secures-67-million-debt-relief-defrauded-former>.
- 74 Stacy Cowley, Education Dept. Will Cancel \$150 Million in Student Debt After Judge’s Order, N.Y. TIMES (Dec. 14, 2018), <https://www.nytimes.com/2018/12/14/business/student-loan-debt-forgiveness.html>.
- 75 See e.g. Manriquez v. Devos, 345 F. Supp. 3d 1077, 1087 (N.D. Cal. 2018).
- 76 See e.g. Manriquez v. Devos, 345 F. Supp. 3d 1077, 1087 (N.D. Cal. 2018).
- 77 See e.g. Manriquez v. Devos, 345 F. Supp. 3d 1077, 1089 (N.D. Cal. 2018).
- 78 See e.g. Manriquez v. Devos, 345 F. Supp. 3d 1077, 1090 (N.D. Cal. 2018).
- 79 Summary of STRF activity as of 4/29/2019 provided to TICAS by OSAR.
- 80 Id.
- 81 Scott Valverde, Chief, Office of Student Assistance and Relief, Letter to Cal. Legislature Re: Office of Student Assistance and Relief Annual Report (Dec. 31, 2018).
- 82 OSAR, Frequently Asked Questions for Corinthian College Students, https://www.osar.bppe.ca.gov/closures/corinthian_college_faq.shtml (last visited July 21, 2019).
- 83 Interview with Josephine Lee, Staff Attorney, Legal Aid Foundation of Los Angeles, July 8, 2019.

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- 85 2016 Cal ALS 593, 2016 Cal SB 1192, 2016 Cal Stats. ch. 593; See also Cal. Educ. Code § 94949.72(b).
- 86 Cal. Educ. Code § 94923(b)(2).
- 87 Attorney General Xavier Becerra Sues For-Profit Ashford University for Defrauding and Deceiving Students (Nov. 29, 2017), <https://oag.ca.gov/news/press-releases/attorney-general-xavier-becerra-sues-profit-ashford-university-defrauding-and>.
- 88 Interview with Josephine Lee, Staff Attorney, Legal Aid Foundation of Los Angeles, July 8, 2019.
- 89 CFPB Sues For-Profit College Chain ITT for Predatory Lending (Feb. 26, 2014) , <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-for-profit-college-chain-itt-for-predatory-lending/>.
- 90 Danielle Douglas-Gabriel, ITT Tech Students Score Victory in Bankruptcy Settlement (November 28, 2018), https://www.washingtonpost.com/education/2018/11/28/itt-tech-students-score-victory-bankruptcy-settlement/?utm_term=.717603f3e231
- 91 See Declaration of Eileen Connor in support of Class Complaint of Jorge Villalba, et al., Jorge Villalba, et al. v. ITT Educational Services Inc., et al., Case No. 16-07207-JMC-7A (Bankr. S.D. Ind.), filed Jan. 3, 2017, available at: <https://predatorystudentlending.org/wp-content/uploads/2018/02/1-1-Connor-Decl.pdf>.
- 92 Samantha Masunaga and Chris Kirkham, Marinello Schools of Beauty Abruptly Shuts Down After Federal Allegations, L.A. TIMES (Feb. 5, 2016), <https://www.latimes.com/business/la-fi-marinello-closing-20160205-story.html>.
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- 97 Interview with Joseph Jaramillo, Senior Attorney, Housing and Economic Advocates, July 3, 2019.
- 98 Scott Valverde, Chief, Office of Student Assistance and Relief, Letter to Cal. Legislature Re: Office of Student Assistance and Relief Annual Report (Dec. 31, 2018).
- 99 Interview with Joseph Jaramillo, Senior Attorney, Housing and Economic Advocates, July 3, 2019.
- 100 Interview with Josephine Lee, Staff Attorney, Legal Aid Foundation of Los Angeles, July 8, 2019.
- 101 Bureau for Private Postsecondary Education, Application for Student Tuition Recovery Fund, p. 9, available at: https://www.bppe.ca.gov/forms_pubs/strf_application.pdf.
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- 106 Cal. Educ. Code § 94949.72.
- 107 Interview with Josephine Lee, Staff Attorney, Legal Aid Foundation of Los Angeles, July 19, 2019.
- 108 Interview with Scott Valverde, Chief, Office of Student Assistance and Relief, July 2, 2019.
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