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TO: Sharon Mar
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THROUGH: Kathy Axt
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FROM: James W. Runcie
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A handwritten signature in black ink, appearing to read "James W. Runcie".

SUBJECT: Request for Additional Institution Specific Form to be Included in the Approved Information Collection to Allow for Receipt of Borrower Defense to Repayment Loan Discharge Claims – OMB Control Number 1845-0132 through the 83C Process.

Background on Borrower Defense to Repayment Loan Discharge Regulations

Following a negotiated rulemaking process, the U.S. Department of Education (the Department) published amendments to the Federal Direct Loan Program (Direct Loan) regulations on December 1, 1994. These regulations included borrower defenses specified in 34 CFR 685.206(c). The regulation, in part, states “(1) In any proceeding to collect on a Direct Loan, the borrower may assert as a defense against repayment, an act or omission of the school attended by the student that would give rise to a cause of action against the school under applicable State law.”

A subsequent negotiated rulemaking process was established for the purpose of developing regulations for borrower defenses for both the Direct Loan and the Federal Family Education Loan Program (FFEL) programs. However, during the first session of the negotiations, the non-Federal negotiators recommended to the Department that no additional sessions were warranted and that no further regulatory provisions for borrower defenses would be needed. It was determined that borrower defenses could be adequately addressed by current regulation and administrative procedures. A further discussion of this is in the Federal Register, Vol. 60, No. 140, July 21, 1995, 37767-37770.

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Prior to 2015, the borrower defense identified above was rarely asserted by any borrowers and the Department had no specific methods in place to collect information regarding borrower defense claims.

Borrower Defense Claims from Corinthian Colleges, Inc. Borrowers

Corinthian Colleges, Inc. (CCI) was the owner of a number of for-profit postsecondary education institutions across the country. In January 2010, CCI purchased Heald College, with locations in California, Oregon, and Hawaii. At the time of its purchase by CCI, Heald College participated in the federal student financial assistance programs authorized under Title IV of the Higher Education Act of 1965 (HEA), as amended. CCI was also the owner of other Title IV eligible institutions, including the Everest and WyoTech chains of schools.

In January 2014, the Department sent a letter to CCI in which the Department requested that CCI provide a copy of school performance disclosure documents for every CCI location, including Everest and WyoTech institutions, for the calendar years 2010, 2011, 2012, and, when available, 2013. The Department also asked that CCI provide the evidence upon which CCI relied to derive each of the placement rates cited in the disclosures, including a list of all students either placed or omitted from the placement calculation due to any type of waiver, and the academic, employment, and/or waiver information specified by the Department.

In June 2014, the Department placed CCI on an increased level of financial oversight after the company failed to address concerns about its practices, including concerns that it was falsifying job placement data used in marketing claims to prospective students and allegations of altered grades and attendance. CCI subsequently agreed to gradually wind down activity as part of an operating agreement with the Department. As a part of the wind down, CCI sold 56 Everest and WyoTech campuses to the ECMC Group in November 2014. Over 70,000 students were enrolled in the programs that were transferred to ECMC.

In April 2015, the Department issued a notice of intent to fine Heald College \$30 million upon finding that Heald misrepresented placement rates for a number of its programs going back to 2010. Upon the issuance of the Department's fine letter, CCI announced it would close its remaining institutions immediately, including all of its Heald locations and several Everest and WyoTech locations that were not part of the sale to the ECMC group. Almost 16,000 students were enrolled in these programs.

Following CCI's closure, former CCI students, supported by various organizations and non-profits, organized a campaign to assert that the Department should discharge their student loan debt pursuant to the borrower defense regulations. Several Congressional offices also voiced support for this position. Many media outlets wrote about the Department's findings and CCI's subsequent closure and discussed the need to support former CCI students in obtaining relief.

On June 8, 2015, the Department announced steps it would take to assist former CCI students in pursuing discharge of their federal loans. The announcement included the posting of a Heald-specific attestation form and an explanation of the process the Department would use to review and process claims from former Heald students. Since the announcement, over 3,000 former

Heald students submitted borrower defense claims to the Department. In addition, over 2,000 students from other CCI programs have filed for loan discharge.

The Department has also received more than 1,000 claims from students who attended other non-CCI schools. The incredible demand for loan discharges for borrower defense was unexpected and outside of the Department's control. The Department received only five claims for borrower defense in the 20 years preceding the collapse of CCI. The CCI closure required the Department to develop a comprehensive borrower defense discharge process in a matter of months despite the complexities of enforcing the regulation.

The Department recently made findings against a number of CCI's other former programs at Everest and WyoTech locations. Given the announcement of these new findings, we expect many more claims to be submitted.

To further protect harmed borrowers, the Department seeks to provide this additional attestation form for student borrowers who attended the Everest or WyoTech programs that the Department has found made materially false representations. The following information relates to that form:

- Students that relied on materially misleading representations can have their loans discharged if they complete the attached attestation. These borrowers need not prove that Everest or WyoTech's actions violated State law as the Department's findings show a State law violation. Although it is impossible for the Department to predict how many students relied on such misrepresentations, more than 200,000 borrowers attended Everest or WyoTech in the time period covered by the Department's findings.
- This is in addition to the student borrowers who attended Heald College programs that the Department found made false representations who could file to have their loans discharged if they completed the previously approved attestation.
- A process for Everest and WyoTech students will be added to the current review and adjudication of Heald borrower defense claims. The Department cannot bar the submission of claims. Thus, the Department will continue to have on its website the language for borrowers who believe their school has violated applicable State law and who choose not to wait for other forms to send their claims to the address provided and a short list of information they should include. The Department estimates that there are potentially 100,000 borrowers who ultimately may exercise this option.
- All Everest and WyoTech borrowers who have filed or plan to file, an application for borrower defense will have the opportunity to enter forbearance while they submit their applications and the Department reviews their claim.

The Department requests that OMB approve the attached 83C request for the additional Attestation for Everest and WyoTech by February 29, 2016. This attestation form would not require additional respondents or burden hours to the current collection. The only difference in this new attestation form from that previously approved for Heald College is that it provides for

the specific Everest and WyoTech courses identified in the Departmental findings to be selected when the borrower uses the form.

To preserve borrowers' rights and meet its fiduciary responsibilities to the Direct Loan program, the Department is requesting expedited approval for revising the currently approved information collection. This expedited approval will allow the Department to collect the information in the attestation form from Everest and WyoTech borrowers.

Many Everest and WyoTech students have already submitted incomplete and improperly prepared claims because the Department had not made specific findings against the school and therefore did not have a specific form available for these students. When borrowers submit incomplete claims, the Department is forced to postpone processing until all of the required information is obtained from the borrower. This leads to confusion and frustration for borrowers and may ultimately undermine our efforts to provide relief to harmed borrowers.

The expedited approval will help the Department to more quickly process claims for students who have long struggled to pay their loans or have defaulted on their loans. Once students' loans are discharged, they can work towards having any negative information related to the loans removed from their credit reports. Loan discharge may open the door to many opportunities that many former CCI students could not pursue such as purchasing a home or assisting their children in paying for a postsecondary education. Given the significant financial stress CCI-related loans have placed on many students, it is imperative that the Department move quickly to process claims and allow students to continue on with their lives free of this debt.

The Department is also preparing a full information clearance request that would allow it to create additional specific forms after the Department makes specific findings against an institution in the future. Additionally, the Department is drafting a universal borrower defense application form with specific categories that will allow a borrower from any institution to file a borrower defense claim, even if the institution has not had specific Departmental findings lodged against it.

Thank you for your prompt consideration of this request. If you have additional questions, please contact Beth Grebeldinger at beth.grebeldinger@ed.gov or (202) 377-4018.