

The Obama Administration's Disgraceful Handling of a Student Loan Scandal

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By David Dayen 11 hours ago

This week, the Consumer Financial Protection Bureau won a lawsuit against a company that no longer exists. It wasn't exactly their most arduous victory. But it could mean that millions of students defrauded by the for-profit college chain Corinthian will finally get relief in a saga that has stretched out far too long.

CFPB [filed the suit](#) against Corinthian back in September 2014. At that time, Corinthian was a battered but still active network of for-profit colleges, under the Heald, Wyotech and Everest campus brands. CFPB accused Corinthian of predatory lending — more specifically, lying about job placement statistics to sucker students into enrolling and taking out expensive private loans called “Genesis loans.” Corinthian then forced repayment of those loans while the students were still enrolled, even preventing students from completing classes until they paid. The loans were so burdensome that 60 percent of students defaulted within three years.

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Shortly after the suit, Corinthian sold [around half its campuses](#) to a debt collection agency named ECMC, and then [closed all its remaining schools](#) and [filed for bankruptcy](#). The bankruptcy wrapped up in August, liquidating the company.

Because of the liquidation, Corinthian withdrew from defending itself in the CFPB lawsuit. Left with only a plaintiff, Judge Gary Feinerman [entered a default judgment](#) this week. Feinerman ordered Corinthian to make restitution of over \$531 million, the full cost of the loans for over 115,000 students. However, as Corinthian is a liquidated entity, it has no assets to pay the judgment.

“The CFPB will continue to pursue relief for consumers harmed by Corinthian’s unlawful conduct,” the agency said in a statement. (CFPB did secure what officials describe as [\\$480 million in relief](#) on Genesis loans for students at campuses purchased by ECMC, about a 40 percent haircut in the outstanding amount due.)

That’s a rather unsatisfying conclusion for hundreds of thousands of Corinthian students, who will not have any portion of the Genesis loans they paid returned to them. However, these students didn’t just take out the private loans. Most of their payments to Corinthian came in the form of federal loans, which they still owe to the Education Department.

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Hundreds of former Corinthian students have been [on strike](#), refusing to pay their federal loans because they believe that they were defrauded. Now they have confirmation of that in a federal lawsuit, stating explicitly that Corinthian violated the Consumer Financial Protection Act and the Fair Debt Collection Practices Act by selling students on enrolling under false pretenses.

That's an important piece of information. A clause in all student loan contracts allows students to assert "[defense to repayment](#)" and shed their debt balances if they were generated through fraud. Under the Higher Education Act, the Education Department has [wide latitude](#) to grant blanket relief under these circumstances. Instead of this, the department only gave such relief to [certain groups of students](#) who attended Heald College, which it had [already fined](#) for misleading job placement statistics. The rest must fill out a [detailed application](#), which includes transcripts (for an institution that has closed and liquidated and probably doesn't have transcripts available), the specific laws their college violated and the monetary injury suffered.

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These highly specific legal formulations are out of reach to any student without the services of a lawyer or private investigator. As I [wrote](#) in July, the Education Department appears to be placing artificial barriers in front of students to hold down the ultimate cost of forgiving nearly \$4 billion in federal loans. Even the Heald borrowers who only had to fill out an attestation form to get their loans forgiven found hurdles: The fillable version of the form [continues to be broken](#) on smartphones, browsers and non-Adobe PDF viewers, as it has been since June.

As of September, [3,100 Corinthian students](#) managed to get their claims processed and approved, canceling their federal loans. That's a tiny fraction of the total eligible for relief. And with the successful CFPB lawsuit, there is now no reason for students to have to re-prove they were defrauded by Corinthian. A federal agency and federal judge have done the work for them.

Outgoing Education Secretary Arne Duncan could simply use the CFPB ruling to [award blanket relief](#), and end the bureaucratic hardship and stress for hundreds of thousands of defrauded students. While the court case only applied to private Genesis loans, it described the process of tricking students into enrolling with false promises of job placement, and that is exactly what was done to get students to take out federal loans as well.

While students are supposed to cite relevant state laws on the forms seeking debt relief, all states have consumer protection statutes that would prevent the conduct found in the CFPB case. There is no longer any reason to prove this case-by-case.

Not only has the Education Department not commented, it got a new tool to force repayment in the budget/debt limit deal that's soon to become law. Federal debt collectors will be able to [robo-call or auto-dial](#) cell phones to collect student loan payments or other forms of debt.

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This exemption to current law has [been in Obama administration budgets](#) for some time, specifically to help the Education Department collect student debt. The Department stopped collection efforts on Corinthian loans in July, but that temporary stoppage [expires next week](#). So just as the judiciary gives the administration the chance to reasonably cancel loans for defrauded Corinthian borrowers, debt collectors could use a shiny new law to harass the same borrowers into payment.

This is absurd. That Corinthian students were [flagrantly abused](#) in a ruthless drive for profits is beyond dispute. The administration is trying to pretty up its image on the student debt crisis by [modestly expanding options](#) that tie repayment to income. But this sad situation shows their true colors: They will make it as difficult to avoid repayment as possible, worried more about losing money on the student loan program than the fates of students who were ripped off.

The government benefits from a stacked deck in federal student loan collections, [making it impossible](#) for borrowers to not pay. Loans can almost never be discharged in bankruptcy; payments can be taken from tax refunds, wages and even Social Security benefits; and now, debt collectors can harass to their heart's content. Words of compassion aside, only in situations like the Corinthian mess do we see that system not as merely bad luck for borrowers but concerted government policy choices. You can't get out of your loan even when the people who sold it to you broke the law. The Education Department has a moral responsibility to fix this.