

United States Senate

WASHINGTON, DC 20510

September 4, 2019

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary DeVos:

We are writing about federal student debt relief for former ITT Tech (ITT) students, including automatic closed school discharges.

The collapse of predatory for-profit ITT Tech affected nearly 45,000 students, including more than 6,000 veterans—leaving many with massive debt and no avenue to complete their studies. According to the Department, the vast majority of ITT campuses closed on September 3, 2016—three years ago, yesterday.

In March 2017, you indicated to the federal court overseeing ITT’s Chapter 7 bankruptcy proceedings that ITT’s failure meant that over \$460 million in federal student loans were eligible for cancellation under the Higher Education Act’s closed-school discharge provisions.¹ The 2016 borrower defense regulations require you to automatically grant closed school discharges, without any application, for borrowers who attended a school—such as ITT—that closed on or after November 1, 2013, “if the borrower did not subsequently re-enroll in any title IV-eligible institution within a period of three years from the date the school closed.”^{2,3}

As of yesterday, even former ITT students who have not applied for closed school discharge, but are eligible, must have their loans fully discharged. In its June 24, 2019 response to a previous letter on ITT relief, the Department stated that, “In September 2019, we will award automatic closed school loan discharges to eligible students.”⁴ Please provide an update on the Department’s fulfillment of this commitment and its legal responsibility—including when discharges will be processed and the number and dollar amount of discharges provided.

¹ 20 U.S.C. § 1087(c)(1); Claim No. 3047, United States on Behalf of U.S. Dep’t of Educ., *In re ITT Educational Services, Inc.*, 17-07207-JMC-7A (S.D. Ind. Bankr. March 13, 2017), <https://casedocs.omniagentsolutions.com/pocvol1/ITT%20Tech/Claim%20Scan/Claims/16-07207/5350003047.pdf>.

² 34 C.F.R. § 685.214(c)(2)(ii) (eff. October 16, 2018)

³ The Department’s recently released final regulations gutting the 2016 borrower defense rule eliminates automatic closed school discharge at schools that close after July 1, 2020.

⁴ Diane Auer Jones, Response to Senator Durbin, et al. letter of December 20, 2018 (June 24, 2019).

We also urge you to use your authority, provided under “exceptional circumstances,” to expand the pool of former ITT students eligible for this form of discharge.⁵ The Department took similar steps for former students of Corinthian Colleges.⁶ ITT was under increased regulatory scrutiny by the Department for its financial condition since at least August 2014. In December 2015, it entered into an agreement with the Department that allowed it to continue to receive Title IV funds in exchange for providing \$94 million to insure against potential losses in the event of its failure. ITT’s accreditor issued a show-cause directive on April 20, 2016.

Under these conditions, ITT’s focus was on saving itself and maintaining value for shareholders and executives, and not on providing education to students or ensuring compliance with state and federal laws designed to protect students. Therefore, students who withdrew more than 120 days prior to September 3, 2016, could have reasonably believed their school to be a sinking ship. The Department should not penalize these students for taking the reasonable step of abandoning a sinking ship.

Finally, we remain concerned about your continued failure to process borrower defense claims, including those from former ITT students. As of December 31, 2018, more than 19,000 former ITT students had submitted borrower defense applications, and less than one percent had received any determination.⁷ These numbers have surely grown in the intervening nine months. There is no indication that you have taken any action on these applications despite our previous requests.⁸

In your June 24 response, you also falsely claimed that “ongoing litigation has affected the Department’s ability to...finalize the processing of” ITT borrower defense applications. In fact, there is no judicial, regulatory, or statutory barrier to the Department processing and providing full borrower defense discharges to defrauded ITT borrowers. The preliminary injunction that the Department referenced in its response expressly states that “[n]othing in this Order prohibits the Secretary from fully discharging the loans of any borrower...”⁹ We, again, urge you to end the cruel delays and provide the federal student loan discharges to which defrauded ITT borrowers are entitled under the law.

⁵ 34 C.F.R. §685.214(c)(1)(i)(B).

⁶ Ted Mitchell, Debt Relief for Corinthian Colleges Students (June 8, 2015), <https://blog.ed.gov/2015/06/debt-relief-for-corinthian-colleges-students/>.

⁷ Secretary DeVos Responses to Questions for the Record from Senator Murray, <https://www.help.senate.gov/imo/media/doc/SenMurrayQFRresponses32819LHHShearing.pdf>.

⁸ Durbin, et al. Letter to Secretary Betsy DeVos (December 20, 2018), <https://www.durbin.senate.gov/newsroom/press-releases/durbin-dem-senators-press-devos-to-provide-full-student-loan-discharges-to-former-itt-tech-students>.

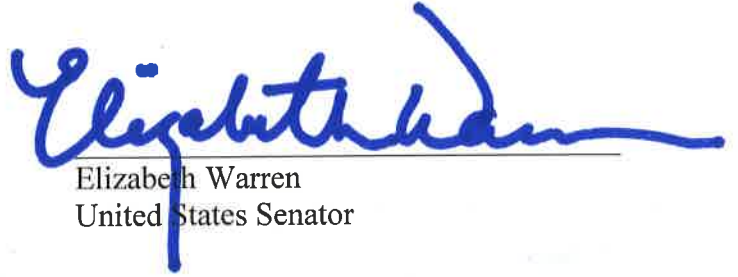
⁹ Amended Order, Doc. No. 70 Calvillo-Manriquez v. DeVos, Case No. 17-07210 (N.D. Cal. June 19, 2018)

We ask for a response no later than September 18, 2019. Thank you.

Sincerely,



Richard J. Durbin
United States Senator



Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator



Sherrod Brown
United States Senator