



**Student Loan
Borrower Assistance**
National Consumer Law Center

How States Can Help Students Harmed by Higher Education Fraud

Robyn Smith and Joanna K. Darcus
National Consumer Law Center®

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EXECUTIVE SUMMARY

Over the last 10 years, several large for-profit school chains deceived hundreds of thousands of students into taking on enormous debts for worthless educations. These chains included Corinthian Colleges, ITT Tech, The Art Institutes, Education Corporation of America, and several others. After years of fraud, each of these chains suddenly closed, leaving financial ruin and trauma in their wake. This picture is likely to worsen with the massive unemployment and disruption to the higher education landscape caused by the COVID-19 crisis. The for-profit school industry, in particular, is already taking advantage of the COVID crisis and aggressively recruiting new students into distance education programs.

Higher education fraud, when unaddressed, devastates families and their communities. It disproportionately impacts low-income, people of color, and women, who start out economically disadvantaged, pursue the American dream by enrolling in college, and then are left in an even worse economic position. Harmed students not only lose the years they spend attending classes for an illusory promise of a high-paying career. They also lose the savings, grants, and student loan proceeds they use to fund tuition, books, child care, and other expenses that allow them to attend college. Many also give up jobs or other career opportunities to go to school. If these students cannot obtain debt relief, they pay for their schools' fraud through a lifetime of debt collection, negative credit histories that make it difficult to find housing and employment, and reduced opportunities for economic advancement.

It is time for state governments to take leadership and help these students, rather than waiting for a solution from the federal government. The federal discharge programs, even when they work, do not provide private loan relief and often do not reimburse students for lost grants, such as GI Bill funds and Pell Grants (except in the case of school closures).

States can provide relief to students through student protection funds (SPFs). These funds are often referred to as “student tuition recovery funds” because they typically reimburse tuition to students whose schools suddenly close. These funds are administered by states and are often funded by a fee calculated as a small percentage of tuition charged per student or total tuition revenues. Through SPFs, states amend or create laws to relieve harmed students for all their financial losses, not just tuition, caused by a broad range of illegal practices.

Currently, only 20 states have SPFs. Most of these SPFs fail to provide adequate relief to harmed students. This report describes specific ways states can amend their laws to strengthen or create SPFs. The ideal SPF would do all of the following:

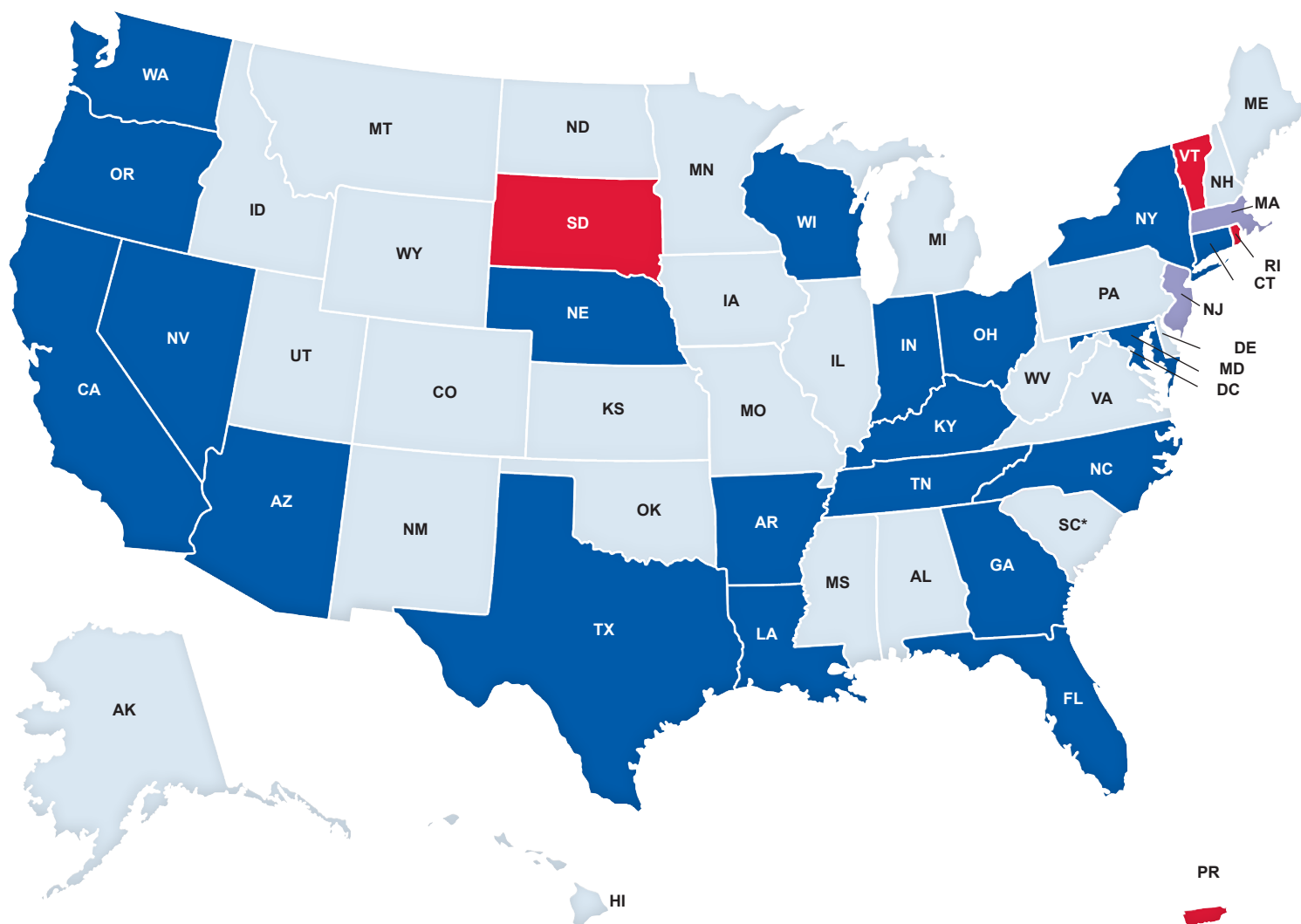
- Maintain sufficient funds to pay all student claims and administrative costs;
- Require each school to fund a surety bond sufficient to reimburse the SPF for losses caused by that school;
- Be maintained as one single fund that covers all for-profit schools, including degree-granting schools and out-of-state schools offering distance education programs, as well as sham private nonprofit schools that financially benefit their board members or owners;
- Provide relief to borrowers who suffer from illegal school conduct, not just from sudden school closures;
- Provide relief to parents and other people who financially contribute to a student's education;
- Establish a SPF claims limitations period, if any, that does not expire as long as any student debt holder can seek repayment from the student;
- Fully reimburse claimants for their total economic loss, including for all loans, grants, and cash obtained by them or on their behalf to allow them to enroll in a higher education program;
- Provide relief based on group claims submitted by law enforcement agencies; and
- Timely resolve SPF applications.

In addition, state agencies should:

- Facilitate widespread student access to SPF relief through an easily accessible claims process; and
- Provide periodic public data regarding SPFs to state legislatures and governors.

How States Stack Up: Which Jurisdictions Have Student Protection Funds?

States with SPFs provide the greatest consumer protection to students.



- States with Student Protection Funds (some of these states also have bond funds)
- States with Bonds Only with Recent Legislation to Create SPFs (MA HB3807 and SB164 (2019); NJ A5141 (2019))
- States with Bonds Only
- State with Neither SPFs nor Bonds

*While South Carolina law authorizes its oversight agency to establish a SPF, it has not done so. S.C. Code Ann. § 59-58-80(D).

I. INTRODUCTION

In recent years, too many for-profit post-secondary schools have delivered disappointment and despair to hundreds of thousands of students. Many closed—often abruptly. Some have faced enforcement actions by state and federal regulators for deceptive, high-pressure recruitment tactics designed to fool students into investing in worthless education programs.

This picture is likely to worsen with the massive unemployment and disruption to the higher education landscape caused by the COVID-19 crisis. Studies show that distance education students have worse outcomes—higher non-completion rates, lower performance measures, higher loan default rates, etc.—than brick-and-mortar students.¹ The for-profit school industry, in particular, is already taking advantage of the COVID crisis and aggressively recruiting new students into distance education programs.² With a well-documented 50-plus year history of widespread fraud in distance education,³ it is clear that combining online education with the profit motive, without strong state consumer protections, is a recipe for disaster.

Even though these students are not the ones who violated the law, they are the ones that our higher education system usually forces to pay for school fraud. These students not only lose the years attending classes that do not lead to the degree or career they were promised. They also lose the savings, grants, and student loan proceeds they used to fund tuition, books, child care, and other expenses that allowed them to attend college. Many also gave up jobs or other career opportunities to go to school. If these students cannot obtain debt relief, they pay for their schools' fraud through a lifetime of debt collection, negative credit histories that make it difficult to find housing and employment, and reduced opportunities for economic advancement.

Ultimately, these students have been let down by the entities that have the power and knowledge—the federal government, state governments, and accreditors—to prevent fraud, but failed to do so. Fraudulent schools and their high-paid executives are largely shielded from liability to taxpayers and students, due to weak state and federal laws combined with a U.S. Department of Education (the Department) and state licensing agencies that are reluctant to take action against suspect schools before they are close to collapse. At the same time, state and federal laws provide an incomplete patchwork of relief for harmed students.

The limited relief available is illusory for the vast majority of students. For a variety of reasons, discussed in Section III, they are rarely able to obtain redress for their losses from the schools themselves. Moreover, although some state attorneys general obtain judgments against unscrupulous schools, these actions do not typically cover the financial losses suffered by students, often because the schools go bankrupt. In addition, applications for federal student loan relief languish, sometimes for years, and often result in little or no debt relief because the Department imposes high standards that are impossible for most students to meet.⁴

This is where student protection funds come in. These funds are often referred to as “student tuition recovery funds” because they typically reimburse tuition to students whose schools suddenly close. These funds are administered by states and are often funded by a fee calculated as a small percentage of tuition charged per student or total tuition revenues. They are known as student protection funds (SPFs) because, as detailed in this report, states should amend or create laws to relieve harmed students for all their financial losses caused by a broad range of illegal practices.

SPFs have the potential to relieve harmed students and their families from unaffordable and unjust student debt and allow them a fresh start at more affordable higher quality colleges. Outstanding debts from fraudulent schools create barriers to students who wish to re-enroll in public colleges or other quality institutions of higher education. Students are often hesitant to take out additional debt, are in default, or have hit the federal financial aid eligibility ceiling. These debts also send damaging ripples throughout the local and state economy, in terms of housing, earning potential, spending potential, and upward mobility. Through SPFs, states can contribute to the economic stability of their residents and their communities while also helping to increase the supply of skilled and trained workers.

Few states, however, have created SPFs that meet this potential. Twenty states have some type of a SPF but their ability to provide student relief varies greatly. Other states require that schools obtain surety bonds from guarantors, who then are required to pay claims from students, state agencies, or others for their losses. Students are less likely to receive relief from a bond than a SPF.⁵ Finally, many students lack access to either of these options. (See map on page 5.)

SPFs are more critical than ever before. Due to the growth of the for-profit college sector, the number of students impacted by for-profit school closures and fraud has exponentially increased over the last 30 years.⁶ Despite the mass collapse of several for-profit chains since 2010, enrollment numbers in online for-profit schools are now on the increase due to the COVID-19 pandemic.⁷ These students incur enormous debt they cannot afford to repay.

Moreover, the most vulnerable people, including low-income people and people of color, are more likely to suffer from the harm perpetrated by fraudulent for-profit schools. Disproportionate numbers of Black and Latinx students, low-income students, veterans, and older students enroll in programs offered by predatory for-profit education companies.⁸ According to the research of law professors Dalié Jimenez and Jonathan Glater:

For-profit colleges aggressively market to Black and Latinx students, as well as other marginalized groups like women, single parents, immigrants, formerly incarcerated people, and military veterans. While Black and Latinx students

Disproportionate numbers of Black and Latinx students, low-income students, veterans, and older students are harmed by predatory for-profit education companies.

make up less than one-third of all college students, they represent nearly half of all those attending for-profit institutions. Fifteen percent of Black students attended private for-profit institutions: more than students of any other race or ethnicity. For-profit colleges are generally far more expensive than their public and nonprofit counterparts. . . . Students at for-profit institutions pay more, are more likely to borrow, and borrow larger amounts than those attending a non-profit or public school.⁹

Despite the overwhelming evidence that the for-profit higher education sector and some nonprofit schools continue to harm vulnerable students, most state governments have failed to enact meaningful minimum standards and strong higher education consumer protection laws. Even when they have, state agencies rarely exercise real and effective oversight of high-risk schools to prevent the widespread fraud we have seen for over three decades. Neither state licensing agencies nor the Department have done enough to recoup taxpayer funds and student lives stolen by fraudulent schools, their high paid executives, and their owners. Until this happens, states should step up and provide greater financial relief to the harmed students.

As described in Section III of this report, existing state SPFs rarely provide full financial relief to harmed students. This report describes specific provisions that states can enact to create and improve SPFs in order to ensure that all students harmed by school fraud are able to start their lives anew without disabling student loan debt.

II. WHY ARE STATE STUDENT PROTECTION FUNDS NECESSARY?

1. Federal discharge programs do not provide full student debt relief.

Under some circumstances, the federal student loan regulations provide for the discharge of federal loans and the reinstatement of eligibility for grants aimed at low-income students, called Pell Grants.¹⁰ One such circumstance is when a school closes. Closed school discharge relief for federal loans is available to students who are unable to complete their education because of their school's closure.¹¹

Federal law also gives borrowers the right to request the cancellation of their federal student loans if they experience school fraud or other illegal conduct.¹² This type of cancellation is often referred to as a “borrower defense” claim. Until the 2014 collapse of the nationwide for-profit Corinthian Colleges (Corinthian) chain, these types of claims were rarely filed by borrowers. Only after the collapse, when thousands of defrauded Corinthian borrowers had no other avenue to debt relief, did the Department develop a process to allow students to assert their borrower defense claims.¹³ Through this new process, students harmed by the misdeeds of predatory,

low-quality schools may apply to the Department to seek a discharge of their federal student loans. When a student has submitted sufficient evidence of illegal school conduct, the Department has the discretion to grant partial or full loan cancellation.

Federal student loan discharges, however, rarely provide full financial relief to students impacted by school closures or fraud. As college costs continue to rise, increasing numbers of students rely on private loans to fund college educations and living expenses. They may also receive Workforce Investment and Opportunity Act funds, state grants, employer grants, G.I. bill funds, Department of Defense funds, and other types of financial aid, none of which are covered by Department of Education discharges.

Federal student loan discharges rarely provide full financial relief to students impacted by school closures or fraud.

Moreover, even borrowers with the most straightforward borrower defense claims, such as Corinthian students, have faced significant barriers to obtaining discharges. From the end of January 2017 until recently, the Department decided few of the pending borrower defense claims, which numbered over 225,000 as of December 2019.¹⁴ Thus, hundreds of thousands of borrowers—some of whom had submitted borrower defense claims as early as 2015—have been in limbo for years, unable to re-enroll in a quality higher education institution, make financial decisions, or otherwise move on from their fraudulent school experiences. In 2020 the Department started issuing decisions pursuant to a proposed settlement of a class action that challenged its failure to timely process pending borrower defense claims. The federal court, however, recently refused to approve the proposed settlement. It determined that the Department had denied 94% of the claims it had reviewed “at breakneck speed” by issuing “perfunctory denial notices utterly devoid of meaningful explanation.”¹⁵ It further determined that the Department may have done so in bad faith and ordered the parties to brief the court on whether it should enjoin the Department from issuing any further denials.¹⁶ In response, the Department agreed to stop denying borrower defense claims while the lawsuit proceeds.¹⁷ These borrowers will now have to continue to wait for relief.

Federal discharges fall short in a number of other ways. They do not:

- Provide for discharges when a state attorney general or the student obtains a state court judgment or arbitration award against a school that goes unpaid when those judgments are not the result of a fully contested process.¹⁸
- Reinstate eligibility for G.I. Bill funds (except for the full restoration of benefits to most recipients impacted by school closures between January 1, 2015 and August 16, 2017 and the restoration of one term of benefits for recipients impacted by closures after August 16, 2017).
- Discharge private student loans.

- Reimburse cash the borrower paid to the school or for school-related supplies and materials.

State SPFs can and should fill these gaps.

2. States should ensure full financial relief for students harmed by schools that they license.

Title IV of the Higher Education Act (HEA) provides for the regulation of postsecondary institutions through a regulatory triad composed of the federal government, accrediting agencies, and states.¹⁹ Within this triad, states are primarily responsible for protecting students from abusive for-profit school practices.²⁰ The HEA accomplishes this by requiring an institution to be “legally authorized” by the state to provide a program of postsecondary education before it is eligible to receive Title IV funding.²¹

Congress explicitly left the student protection role to the states because neither accreditors nor the federal government are equipped to ensure consumer protection. Accreditation is a voluntary peer-review process that focuses on helping colleges improve academically when they fail to meet agency guidelines, not on enforcing false advertising and consumer protection laws.²² The only “enforcement” tool available to an accreditor is de-accreditation, which accreditors rarely use.

Congress explicitly left the student protection role to the states because neither accreditors nor the federal government are equipped to ensure consumer protection.

While the U.S. Department of Education has the authority to enforce important minimum standards applicable to for-profit schools, it primarily focuses on administering federal financial aid programs. In addition, as demonstrated by the implosions of Corinthian and ITT Tech, the Department is slow to take action against fraudulent schools, and often does so only after large numbers of students have already been harmed.

The state governments are in the best position to monitor the everyday practices of for-profit schools and take action when those schools are harming students. States have the broadest legal authority to do so, are more accountable to the public, and are in closer proximity to the schools.²³ Moreover, they are the only entities within the triad that have the authority to require schools to pay into SPFs and to use these funds to reimburse students for losses of non-federal sources of financial aid.

3. Most students and state attorneys general are unable to obtain monetary relief directly from schools.

Certain types of school misconduct, such as high-pressure enrollment tactics and misrepresentations regarding job placement, the transferability of credits, and the salaries of graduates,²⁴ are illegal under most states’ general consumer protection

laws. They also often violate state consumer protection laws that specifically prohibit common for-profit school abuses. For-profit education companies, however, have made it difficult for students to seek relief for these violations through courts. Many schools now include clauses in enrollment agreements that mandate arbitration and bar access to courts, as well as prohibit the use of class actions to rectify student harms.²⁵

In addition, most states lack private rights of action for violations of state consumer protection laws that apply only to institutions of higher education. Even when such causes of action exist, as they do in five states,²⁶ most do not authorize the payment of attorneys' fees when a student prevails.²⁷ Attorneys are unwilling to litigate these individual cases due to the relatively small monetary awards and resulting small contingency fees, which do not come close to covering the cost of the extensive legal work required. Thus, students are rarely able to access courts or arbitrate to seek compensation for harms caused by for-profit schools. Given that this is partly due to states' failure to enact robust private causes of action with attorneys' fees provisions, states should at least ensure that students can obtain relief through other methods, such as SPFs.

Even judgments against schools obtained by state attorneys general often go unpaid due to school closures and subsequent bankruptcies. For example, the Attorney General of California obtained a default judgment against Corinthian that included \$820 million in student restitution.²⁸ This restitution was never paid because Corinthian filed for bankruptcy and had insufficient assets to repay most of its creditors. In this situation, SPFs can step in and pay restitution to students covered by the judgment.

4. Surety bonds provide inadequate student protection.

Many states require schools to secure a form of financial insurance before they can begin operations. Often this financial insurance is in the form of a surety bond. In these cases, schools typically pay for bonds from guarantors, who then pay claims from students, state agencies, or others for their losses. The claims are paid according to the terms of the bond and applicable statutes, until the total amount of the claims exceed the amount of the bond.

More than 40 states require some subset of schools to provide surety bonds,²⁹ whereas only 20 states require schools to pay into SPFs.³⁰ In the states that have both bonds and SPFs, while schools are sometimes required to comply with both,³¹ many have exceptions such that it is common for schools (and their students) to be covered only by one or by neither.³² Bonds differ from SPFs in important ways that often limit the relief available to students.

a. Unlike SPFs, bonds are non-replenishable.

Bonds are often issued for a fixed, non-replenishable amount,³³ whereas SPFs usually incorporate a mechanism for replenishing the fund, either at regular intervals or on demand from the oversight agency when needed.³⁴ In other words, once a bond is exhausted, there is rarely a mechanism for requiring the school to provide additional funds to satisfy remaining claims. Most bonds are paid out on a first-come, first-serve basis and, unless a bond is large enough to cover all student claims, some students are paid 100% while others get nothing.

Moreover, even if a state agency has the authority to require a school to provide additional security if an existing bond is or may be insufficient to cover claims, as in Nevada,³⁵ most student claims are submitted after a school has closed and are based on school closure or unpaid judgments. At this point, the school is often in bankruptcy or otherwise lacks sufficient resources to fund additional bonds or other security.

b. Bonds are unlikely to be large enough to cover potential student claims.

Some states calculate bond amounts as total tuition and fees per year or term (i.e., semester or quarter), or a percentage of it, typically with minimum required bond amounts.³⁶ States may also consider other factors in setting the bond, such as accreditation status,³⁷ number of enrolled students,³⁸ or whether a school is degree- or non-degree-granting.³⁹ Many of these states also cap bonds at a maximum amount.⁴⁰ Other states do no calculations at all, instead setting a single bond amount for all schools.⁴¹

Bonds in most states are far too low to cover student claims. The minimum bond amount per school or campus can be as low as \$5,000 or \$10,000, for example in Massachusetts and Minnesota.⁴² Many states also cap bonds at a maximum amount as little as \$10,000 or \$20,000, for example in Wyoming and Alabama.⁴³ And some states set a low bond amount for all schools, for example \$5,000 in Montana and \$20,000 in Kansas.⁴⁴ In light of the high cost of college (average student debt of 2019 college graduates was \$28,950),⁴⁵ these bonds are woefully inadequate—one can be exhausted by the claim of just one closed school student who is unlikely to even receive enough from the bond to provide full financial relief.⁴⁶

The amount of potential closed school liability, for even one school, can amount to millions. As an example, Corinthian operated approximately 107 campuses, with 65,000 students, as of its official closure date in 2014.⁴⁷ As of November 1, 2016, the Department granted closed school discharges totaling \$103.1 million for 7,858 Corinthian borrowers (a fraction of those eligible), with an average discharge of \$13,114.⁴⁸ While these campuses were spread across multiple states, the potential liability for even one campus can be large, especially if a bond is also intended to cover other types of aid received by students, such as GI Bill funds, state grants, and private student loans. For this reason, bonds that would cover *all* potential student

claims, fully covering all financial losses, are likely to be prohibitively expensive. Most schools could not afford them.

c. Bond funds are difficult to administer.

Ideally, to properly administer a bond, state agencies would have to closely monitor each school's enrollments in order to ensure that schools with increasing enrollments obtain larger bonds. States would also have to monitor claims payments, to ensure that if a bond is depleted for claims other than school closure, the bond is replenished by the school.

In addition, unlike the simple formulas available for SPFs,⁴⁹ calculating a bond amount for each school that is sufficient to cover all potential student reimbursements can be extremely complicated. For example, if a bond is only available to students whose school closes before they are able to complete their education, its amount should be calculated based on the number of students enrolled during a specified time period. Then, the number of students would be multiplied by the total funding needed to complete their programs over multiple years, including with federal loans, private loans, and government or third-party grants, as well as any cash they paid to the school. Calculating a bond amount sufficient to cover other types of eligible claims—such as the discontinuance of programs, failure of a school to make refunds ordered by a state agency, unpaid judgments or arbitration awards, etc.—would be even more difficult.⁵⁰

d. Bonds present other practical problems.

Bonds should exist for a sufficiently long period, even after a school closure, for a number of reasons. Many students may be eligible for some type of federal discharge, and sometimes bond claims may not be paid until after federal discharge applications are resolved. This can take years. Moreover, as discussed next, students do not often know about their rights to file claims and should have an extensive time period to file them.⁵¹

For these reasons, SPFs are far more likely than bonds to ensure that students harmed by school closures or fraud receive debt relief. Bonds can be most useful when paired with a SPF to indemnify the SPF for losses incurred due to the school's actions or to fund the administrative expenses of administering SPF claims from a particular school.⁵²

III. ESSENTIAL PROVISIONS OF STUDENT PROTECTION FUNDS

There are many details that each state must consider when developing a SPF scheme or evaluating whether to amend existing SPF provisions. What follows is a discussion of the essential SPF features for states that wish to provide full relief for students who are harmed by school closures or school fraud. Appendix C provides a list that advocates may use to evaluate their own state's SPF provisions against these criteria.

1. State SPFs should maintain sufficient funds to pay all student claims and administrative costs.

To provide full relief to harmed students, a SPF must contain funds sufficient to pay all potential claims. This means that the SPF must have dedicated sources of funding, sufficient funds on hand, and a mechanism for replenishing the fund as needed.

The public does not bear the cost of SPFs. States typically derive SPF funding from small assessments paid by schools or students. Some states require schools to pay a small fee in a SPF as a condition of licensure or approval to operate.⁵³ Other states require schools to collect a small assessment from students. In California, for example, students are required to pay (and schools are required to collect and forward) a fee into the SPF.⁵⁴ States should also require the oversight agency to revoke the license of schools that fail to pay into the SPF.⁵⁵

The public does not bear the cost of SPFs. States typically derive SPF funding from small assessments paid by schools or students.

To the extent that schools pass their costs on to students (in the form of increased tuition), the formulas for funding SPFs aim to keep the cost per student very low. The fee is typically a small percentage of the tuition charged to the student, for example fifty cents per \$1,000 charged in tuition. The existence of the SPF and the fee, similar to a very small insurance premium, are disclosed to students upfront.⁵⁶ Neither students, nor their advocates, have ever protested the payment of this small fee in California, as far as we know. More typically, the protest comes from schools, but the impact on their bottom line is negligible because the fees are minimal compared to the tuition they charge.

State law may cap the total amount of a SPF. For example, California's Student Tuition Recovery Fund is capped at \$25 million.⁵⁷ States should ensure that caps are sufficient to cover potential student losses and administrative costs. Similarly, states that lack caps should ensure that the SPF retains sufficient funds for likely losses and costs. Florida, for example, requires that its SPF be actuarially sound and periodically audited.⁵⁸ While there is no perfect process, the state should consider the total number of students enrolled during a specified time period and the full "cost of attendance" for each student, multiplied by the number of years necessary for each

student to complete his or her credential. Cost of attendance is defined by the federal government as the sum of tuition, required fees, room, board, books, supplies, and other education related expenses, as determined by an institution for purposes of calculating a student's financial need and awarding federal student aid funds.⁵⁹

SPFs should also cover the expenses of administering the SPF, as well as the cost of maintaining student records. States must ensure sufficient staffing to review and grant claims, ensure that schools are paying assessments when due, decide when changes to the assessment are necessary, and maintain and provide documents to students when requested. South Carolina law, for example, allows the SPF to pay expenses to store and maintain student records.⁶⁰ Georgia's SPF pays the annual cost of administering the SPF, capped at 2.5 percent of the fund during the fiscal year.⁶¹

A SPF should not be dependent on a legislative appropriation process, which could unnecessarily delay the replenishment of a fund after a large school has closed. Instead, state agencies should have the discretion to levy *and* set the amount of the student or school assessments as necessary, without seeking permission from the legislature. State law should also require the oversight agency to resume the collection of assessments when the SPF falls below a certain amount. California, for example, requires its oversight agency to resume collection of student assessments when its SPF fund falls below \$20 million.⁶²

Further, funds designated for the SPF should not be available for any purposes except to pay SPF claims and fund administration of the SPF. SPFs should not be available to a state's general fund, for instance, which can be prevented through anti-lapse and anti-raiding provisions in the SPF statute.⁶³

2. States should require schools to fund surety bonds to reimburse the SPF for losses caused by each school.

Some state legislators have opposed SPFs on the grounds that fraudulent schools should be the ones to pay for the fraud they commit—not the students themselves. While this is a laudable goal, accountability is not the primary goal of these funds. SPFs enable states to amass funds sufficient to cover losses that any single school, even if completely solvent, would be unable to fund itself. In other words, SPFs are insurance funds for students. SPFs should not be rejected as a viable way to provide student relief simply because they do not hold closing or fraudulent schools accountable.

To hold schools accountable for their own illegal actions, states may enact a partner provision requiring schools to fund surety bonds that are solely available to reimburse SPF losses caused by the school. In Georgia, for example, schools must post a bond “conditioned to provide indemnification to the Tuition Guaranty Trust Fund . . .”⁶⁴ Surety bonds can also be available to reimburse a SPF for the costs of administering student claims from the schools that fund them.

If such bonds are in amounts that are sufficient to cover potential losses from and administrative expenses caused by a single school, only schools with stable finances could afford them. Bonds would therefore also prevent the continued licensure of financially troubled schools which pose the highest risks to students. In this manner, schools will be on the hook for the harm they cause to students, while students will be able to obtain full financial relief for school closures and other misconduct from a SPF.

3. State SPFs should be administered as a single fund.

Many SPFs date back to the 1990s or earlier, when the schools that most commonly closed or defrauded students were for-profit *non-degree* granting schools. For this reason, SPFs initially only applied to non-degree programs. Since that time, large numbers of non-degree granting schools have expanded into offering degrees, while for-profit companies have acquired or greatly expanded degree-granting schools, many of which have been subject to law enforcement actions.⁶⁵ Some states extended eligibility to degree-granting students,⁶⁶ while others created a separate SPF for degree-granting schools.⁶⁷ Still other states have not created a SPF for degree-granting students.⁶⁸

Each state should have one SPF, operated by one agency, that covers *all* for-profit colleges (and some nonprofits, (see Section III(4), *infra*) regardless of the type of credential they offer. To do any less leaves too many students without access to relief. Having two different SPFs, for example, can mean that one fund is flush while the other lacks sufficient funds to pay student claims. This is exactly what happened in California in the 1990s when it had two separate funds, one for degree-granting schools and one for non-degree granting schools. Creating one SPF fund for all for-profit and risky nonprofit schools avoids this type of unintended consequence. It also avoids administrative inefficiency and student confusion.

4. State SPFs should cover students who attend all types of for-profit schools offering programs to their residents, including out-of-state schools offering distance education and degree-granting schools, as well as sham private nonprofit schools that generate profits for their owners or board members.

SPFs vary widely concerning which types of schools they cover. Most apply to for-profit colleges. Of these, some only apply to a subset of non-degree granting schools,⁶⁹ whereas others also apply to schools that award associate, bachelor, or graduate degrees.⁷⁰ A few SPFs like Georgia's also cover nonprofit private schools.⁷¹ Some states, like Nebraska, have more than one SPF, each one applying to a different type of school,⁷² while others have a single SPF covering different types of schools.⁷³

Each state should have one SPF, operated by one agency, that covers all for-profit and bogus nonprofit colleges, regardless of the type of credential they offer and the mode of education (in-person or online).

An evaluation of state SPFs and whether they cover all types of for-profit and non-profit schools is included in Appendix A.

In addition, increasing numbers of for-profit schools are deceptively converting to nonprofit status or entering revenue sharing, joint operation, or other types of contracts with nonprofit public schools, while others are being sold to nonprofit private or public entities.⁷⁴ These schools often retain their focus on generating profits, then disguise the financial benefit to their owners or board members in a number of ways, including by outsourcing services to for-profit entities that they own.⁷⁵ Sometimes the for-profits convert to non-profits, then do business under or new name shared by the public school and the new nonprofit.⁷⁶ Because these covert nonprofit schools engage in many of the same deceptive practices as for-profit schools,⁷⁷ states should require them to pay into a SPF. In 2019, for example, Maryland passed legislation that requires nonprofit institutions to comply with the same consumer protection laws, including SPF requirements, as for-profit schools whenever their board members or owners benefit financially from any transaction involving the nonprofit school.⁷⁸

SPFs should also cover for-profit schools and covert nonprofits that offer online, distance education programs as well. For-profit schools enroll a disproportionate share of students in online distance education programs.⁷⁹ Yet, a majority of state SPF laws do not protect students who enroll in distance education programs offered by out-of-state schools that lack a physical presence.⁸⁰ Because most SPF laws were drafted before the emergence of online education and the Uniform State Authorization Reciprocity Agreement (NC-SARA), it is often difficult to determine whether students who enroll in exclusively online programs offered by out-of-state schools are covered by state SPF provisions. In Appendix B, we have analyzed whether state SPF laws apply to online education based on often confusing and conflicting state statutes, regulations, and public statements.

a. Out-of-state distance education schools that lack a physical presence

Only a handful of states require out-of-state schools that offer distance education to pay into SPF funds for their resident students.⁸¹ Yet, in 2019 80% and 85%, respectively, of online-only undergraduate and graduate student enrollments at for-profit schools were at out-of-state institutions.⁸² States that have signed onto NC-SARA exempt out-of-state NC-SARA schools from their SPF requirements, because NC-SARA prohibits signatory states from requiring out-of-state NC-SARA institutions to pay SPF fees, even for their own residents.⁸³

In 2019 80% and 85%, respectively, of online-only undergraduate and graduate student enrollments at for-profit schools were at out-of-state institutions.

California is the only state that has not signed onto NC-SARA.⁸⁴ California's law requires most out-of-state for-profit schools to pay into its SPF for students located in California.⁸⁵

b. Out-of-state students and distance education providers with physical headquarters located in-state

NC-SARA purports to require all state signatories to “make every reasonable effort” to provide relief for out-of-state students harmed by the closure of a school that is physically headquartered in-state.⁸⁶ Despite this, according to NCLC's review of state law, few states allow non-residents to file claims against their SPF funds. Oregon allows claims by non-residents who do not have another SPF available to them.⁸⁷ Many state SPFs do not provide relief to non-residents in any circumstances, including non-residents who enroll in distance education programs offered by a school with its physical headquarters located in the SPF state.⁸⁸

Thus, while brick-and-mortar students can obtain SPF relief when harmed by a for-profit school, distance education students cannot although they endure similar, long-lasting financial harm. States should update their laws to protect their own residents who enroll in distance education programs and are harmed by out-of-state school misconduct. By limiting relief, states skip out on the responsibility to hold the distance education schools they authorize (or otherwise allow to operate) accountable for providing relief to harmed students.

States should update their laws to protect their own residents who enroll in distance education programs and are harmed by out-of-state school misconduct.

5. Claimants should be eligible for reimbursement after suffering from a wide range of school misconduct.

Most states with SPFs have considerable work to do, as they provide relief for a very limited set of triggering events. The vast majority of states with SPFs only cover school closures, including closures caused by bankruptcy.⁸⁹ Some SPFs, however, cover a variety of other situations, including breach of contract,⁹⁰ non-payment of a judgment against the school,⁹¹ and other illegal school conduct.⁹²

For example, California students who attend non-exempt for-profit colleges are eligible for relief in all the following circumstances:

- (1) their school closes;
- (2) their program is discontinued;
- (3) they were awarded money in a judgment or arbitration award against the school, obtained by themselves, in a class action, or by a government agency, but the school did not make the payments required by the judgment or arbitration award;

- (4) the oversight agency ordered the school to pay the student a refund, but the school failed to do so; or
- (5) the school failed to pay or reimburse proceeds as required by federal law or in excess of amounts due to the school.⁹³

New York's Weak Student Protection Fund Law Leaves Defrauded Student Deep in Debt

In 2005, Ms. Encinas (name changed to protect privacy) enrolled in the Diagnostic Ultrasound (DU) program offered by the New York City campus of for-profit Sanford-Brown Institute. She obtained over \$13,000 in federal student loans and \$27,000 in private student loans based on the school's representations that the program was fully accredited and would qualify her for a highly paid job as a certified ultrasound technician. After graduation, however, Ms. Encinas discovered that she was not eligible to sit for the certification exam because Sanford-Brown's DU program was *not* accredited. As a result, she was unable to find a job in the field.

In 2013, Sanford-Brown's owner, for-profit Career Education Corporation, entered into an Assurance of Discontinuance with the New York Attorney General (NYAG) based on findings that this and other deceptive practices violated state consumer protection laws. Ms. Encinas subsequently submitted a borrower defense application to the U.S. Department Education seeking the discharge of her federal student loans.

Even if the Department discharges Ms. Encinas's federal student loans, she will likely remain on the hook for her private student loans. Under New York's SPF law (NY Educ. § 5007(4)), students are not eligible for relief even when the federal government grants a borrower defense application or the NYAG conducts an investigation and finds that a school has engaged in illegal and deceptive conduct that harmed students.

A strong SPF will provide compensation to claimants who suffer economic losses due to a wide range of triggering events, including all of the following:

- Students whose programs are discontinued but the school stays open;
- Students who complete their program just before their school closes but who are unable to obtain their diploma or degree;⁹⁴
- Students who are unable to complete their program due to school closure including students who are on a leave of absence when the school closes;

- Students who withdraw from a school within 180 days of the school closure, or a period commensurate with any longer period established by the Department of Education, or a longer period as determined by the oversight agency because school quality often deteriorates long before a school closes;
- Students to whom the state agency has ordered the school to pay a refund, but the school has not done so;
- Students with respect to whom a state agency has determined that the school breached the enrollment agreement;
- Students with respect to whom a state agency has determined that the school violated any state consumer protection law, including a state's Unfair and Deceptive Act Practices (UDAP) law or higher education consumer protection law, based on a preponderance of the evidence presented to the agency;
- Students who withdrew from a program before completion and to whom an institution has failed to pay or refund tuition loan or grant proceeds as required by federal or state law;
- Students who were awarded restitution, a refund, or other monetary award by an arbitrator or court, based on a violation of a state law by an institution or a representative of an institution, but who has been unable to collect the award from the institution. *This provision must be carefully worded so as to include unpaid judgments obtained by state attorneys general;*⁹⁵
- Students whose borrower defense claims have been granted by the U.S. Department of Education or a guaranty agency; and
- Students whose school has lost accreditation or whose program has lost the accreditation necessary to find employment after graduation.

6. State law should authorize law enforcement agencies to submit group claims and authorize state agencies to pay SPF claims without applications from students.

In addition, the SPF statute should allow the state agency, state attorney general, and other law enforcement agency to file group SPF claims on behalf of students for which it has obtained restitution in a judgment or administrative proceeding against a school that has gone unpaid.⁹⁶

State agencies should also be authorized to automatically grant claims, without application, for school closures, discontinued programs, and based upon findings by the state agency, other government agencies, or a court that a school has violated state law. Georgia law, for example, provides that if the state agency finds that a school's violation of the higher education law has caused loss or damage to a student or class of students who have filed complaints, then it may award and pay restitution to those students from the SPF without requiring a SPF application.⁹⁷ Similarly, New York law authorizes the state agency to process refund claims on

behalf of all students of a closed school, even for students who have not submitted applications.⁹⁸

7. People who financially contributed to a student's education should be allowed to file a claim for reimbursement.

It is common for parents, guardians, or others to help pay for a student's education, for example, through a cash payment, by co-signing a private loan, or by obtaining a federal Parent PLUS loan. Such parents and others, however, are eligible for SPF relief in only a handful of states.⁹⁹ In most states, parents or others who have contributed to a student's education remain on the hook for private student loans, as well as federal student loans when no federal discharge applies, even though the state has granted the student's SPF claim. This means that parents, guardians, and friends may be sued for five- or six-digit sums by private student loan holders, and face a lifetime of debt collection by the federal government for Parent PLUS loans, for a worthless education. States should rectify this unjust situation by ensuring that those who contribute to the student's tuition are also eligible for debt relief from SPFs.

8. Limitations period for SPF claims must not expire as long as any private student debt holder can seek repayment.

States impose time periods within which students must file SPF claims, or lose their eligibility for SPF relief. These time periods are typically short, running from six months to five years.¹⁰⁰ These limitations periods are far too short for many reasons.

SPF eligibility can arise in two different scenarios. First, it can arise due to an event of which the state agency is aware. In this case, any limitations period should not begin for a particular student until that student is notified of the opportunity to file a claim. For example, when a school closes, the claims filing period should not begin until the state agency notifies the impacted students about their eligibility for SPF relief. Similarly, if a student is covered by a state attorney general judgment providing restitution, and the student is eligible for relief because the school failed to pay the judgment, the claims period should not run until students covered by the judgment are notified about their SPF eligibility.

Second, SPF eligibility can arise in individual circumstances of which a state agency is unaware. For example, students do not often realize that they enrolled based on a for-profit school's misrepresentations until they leave their programs—with or without a credential—and look for employment or attempt to pursue further education. Only upon leaving do they learn that, contrary to what school recruiters may have promised, their degree does not improve their employment odds or their credits do not transfer. Even when students realize they were lied to or subjected to predatory practices, many are unaware that their school violated the law or that they are

eligible for any type of relief. It is only after they face debt collection lawsuits, wage garnishment, housing barriers caused by negative credit histories, or other adverse consequences of defaulted loans that students typically seek help from a legal services organization or attorney. This is when they discover that they are eligible for some type of student debt relief.

Because there is no statute of limitations on federal loans and often very long collection periods for private loans, states should not impose any time limitations as long as any loan holder, whether private or governmental, can seek repayment on a student loan. No SPF statute currently does this.

9. SPFs should fully reimburse claimants for their financial losses.

Most SPFs do not come close to fully reimbursing students for their total financial loss. SPFs most commonly reimburse students for fees paid directly to the school, including for tuition, books, equipment, and other unearned charges (such as testing services a third-party provides).¹⁰¹ Tennessee is one among a small number of states that allow some students to also recover costs paid directly to the institution for room and board, transportation, and other costs.¹⁰² Unfortunately, some states, including Florida, provide no cash reimbursements to students at all.¹⁰³

The reality is that most students give up years of their lives, as well as jobs, to complete their higher educations. When their schools close or defraud them, they have lost both extensive time and foregone opportunities or jobs, and cannot restart their higher educations until their grants and loans are repaid or discharged in full. States should revisit the definitions in their SPFs such as “economic loss,” “cost of attendance” and “prepaid, unearned tuition,” to ensure that they do not limit the relief available to harmed students to amounts paid to the school.

a. Financial losses covered by SPFs

Calculating and proving consequential damages can be burdensome and difficult for both the student and the state agency. Students are likely to have difficulty proving childcare costs, transportation costs, the value of lost job opportunities, etc., while state agencies are likely to have difficulty piecing together and evaluating whatever evidence is available. In order to create an efficient and accessible process, state SPFs should fully cover all of the following as an approximation of a student’s financial loss:

- all loans (including all interest, fees, or other charges related to loans), whether private or federal;
- all grants, whether state or federal. G.I. Bill funds, Pell Grants, and some state grants limit the amount a single student may obtain over his or her lifetime. Thus, if a student is duped into using his or her lifetime grant limit to pay for a useless

education at a fraudulent for-profit school, in most circumstances he or she will no longer have access to those types of grants to re-start a higher education at a legitimate high-quality school unless they are covered by a SPF;

- all third-party payments, such as scholarships, private grants, or Workforce Investment and Opportunity Act (WIOA) funds; and
- all out-of-pocket cash paid to the school or paid to a third-party for necessary equipment, materials, or supplies (such as a computer, scrubs for students in medical-related fields, etc.).

California's Strong Student Protection Fund Law Gives Defrauded Student Fresh Start

Starting in 2014, Mr. Garcia (name changed to protect privacy) obtained \$9,500 in federal student loans, over \$5,000 in Pell Grants, and \$7,300 in private student loans to attend for-profit Everest College's Electrician Program in San Bernadino, California. After he graduated, he was unable to find an electrician job and realized that the primary reason he had enrolled—Everest's promise that he would find employment after graduation—was untrue. With the help of a legal services organization, Mr. Garcia submitted a borrower defense application. The U.S. Department of Education granted his application and fully discharged his federal student loans.

In 2016, the California Attorney General (CAG) obtained a judgment against for-profit Corinthian Colleges, the owner of Everest, awarding restitution of \$820 million to a cohort of students that included Mr. Garcia. Because Corinthian never paid this judgment, Mr. Garcia is eligible for relief from California's Student Tuition Recovery Fund (STRF) under California law. He therefore submitted a STRF claim. He received a refund of over \$2,000 that he paid on his private student loans; the outstanding amounts due on the loans were cancelled pursuant to a separate CAG settlement with the private student loan holder. Mr. Garcia also received over \$5,000 in educational credits, equal to the amount paid in Pell Grants to Everest on his behalf. He may use these educational credits in the future to attend a legitimate college. Finally, the legal services organization received \$500 to partially reimburse it for the hours its attorneys spent preparing the borrower defense application that was granted.

These payments, grants, and liabilities should be fully reimbursed, paid-off, or made available as future education credits by SPFs, regardless of whether they were paid directly to the school, and even if they funded childcare, transportation, meals, supplies, and living expenses.

California recently expanded reimbursable financial loss to include the full amount of all loans, all grants, all third-party payments, and all cash paid by or on behalf of a student to enable attendance at the school—even if these funds were used for living expenses, child care, transportation and other expenses *not* paid directly to the school.¹⁰⁴ This includes providing claimants with educational credit amounts that are equivalent to lost grants and third-party payments.¹⁰⁵ In other words, if an eligible claimant received grants or third-party payments, the California SPF will pay the equivalent amount to any institution at which the claimant later enrolls. This is extremely valuable for veterans and low-income students who have received G.I. Bill funds, Pell Grants, WIOA funding, or state grants and want to start over.

With respect to student loans, the state agency should either pay off or negotiate for the cancellation of student loans with federal or private loan holders. Negotiating cancellations can vastly reduce the depletion of a SPF from payment of large claims. To facilitate this, the state should require that students/claimants assign their claims against schools and loans holders to the state agency so that it can (1) assert the students' claims against schools to the extent they have assets (even in if they end up in bankruptcy); and (2) negotiate loan cancellation with the federal government or private loan holders. California, for example, currently provides for the assignment of claimant rights and authority to negotiate with loan holders.¹⁰⁶ Many other states do the same.

b. Teach-outs and credit transfers after school closure

School closures present unique issues concerning teach-outs and credit transfers. A teach-out occurs when the closing school pays a different school to finish teaching out the students after it closes. No state SPF should force a student to enroll in a teach-out on pain of losing eligibility for reimbursement from the SPF, as some states currently do.¹⁰⁷ Others place the burden on the student to prove that no other institution will offer a teach-out or accept his or her credits.¹⁰⁸ These requirements essentially punish students who have had horrible experiences and who may not want to continue their educations or who may opt out of a teach-out for a variety of legitimate reasons. Rather than forcing demoralized students into a teach-out, these students should be given the opportunity to make their own decisions about whether to enroll in a teach-out, start over at some other school, or forego seeking a higher education altogether.

Students should have the opportunity to choose what is most appropriate for themselves and their families. They often evaluate teach-outs based on a number of factors, including:

- (1) the distance of the teach-out location from their residence, child care, or employment;
- (2) whether the hours/days of the teach-out program conflict with work or child care schedules;

- (3) the cost to complete the teach-out program compared to what they would have paid the closed school; and
- (4) the teach-out school's federal student loan default rates, graduate placement rates, completion rates, or other metrics in areas important to the student.¹⁰⁹

State law should provide a full reimbursement to students who enroll in a teach-out, unless the teach-out is both state- and accreditor-approved and the student *completes* the teach-out. Students may opt to give the teach-out a try, then decide to drop out for many different reasons (see previous paragraph). Or, students may only discover their SPF and closed school discharge rights after they have already enrolled in a teach-out. This is consistent with federal law.¹¹⁰

If the student is able to transfer any credits after a school closes or discontinues a program, the SPF should pay full relief unless the student transfers to and completes the same or comparable program at another school. This is also consistent with federal law.¹¹¹ In this case, to the extent the new school did not accept all of the student's prior credits, the SPF should provide *partial relief*. In other words, states should recognize, as California does,¹¹² that students who are able to transfer only a portion of their credits to another school for the same program have still suffered an economic loss corresponding to the number of credits earned at the closed school or in the discontinued program that do not transfer to the subsequent school.

Indeed, few for-profit school students are able to transfer credits to public schools. The U.S. Government Accountability Office recently studied the transfer of credits between 2004 and 2009. It reported that that only 4% of students were able to transfer credits from for-profit to public schools and that

Between 2004 and 2009, only 4% of students were able to transfer credits from for-profit to public schools, according to a study by the U.S. Government Accountability Office.

students who transferred from for-profit schools to public schools lost an estimated 94% of their credits.

Even if a student's credits transfer, they may not apply toward fulfilling degree requirements for their intended major. In these cases, a student will likely have to take additional courses at their new school, which could potentially delay graduation and result in additional costs to pay for repeated courses.¹¹³

Students deserve the opportunity to obtain the education they sought or to move forward without debt, depleted finances, or diminished opportunities after they are harmed by a for-profit school.

10. State agencies should timely resolve eligible SPF applications.

States should ensure that state agencies timely review and decide SPF claims. New York, for example, requires the oversight agency to act on each SPF claim within 30 business days of the claim.¹¹⁴ Without such a provision, claimants often wait years for

their SPF claims to be reviewed. There can be many reasons for this, including lack of funding for sufficient staff to review SPF claims.¹¹⁵

Another reason for this long waiting period is that most SPF claimants have simultaneously submitted loan discharge applications to the federal government. In order to reduce the losses to the SPF and avoid a double award to the claimant, states typically delay ruling on SPF claims until after the federal government has decided related discharge applications. While the federal government acts fairly quickly on closed school discharge applications, it has stalled ruling on thousands of borrower defense claims for years. For example, borrowers who have filed SPF claims in California based on the Attorney General's default judgment against for-profit Corinthian Colleges have been waiting one or more years for the resolution of their related SPF claims.

To avoid these long waiting periods, states should require oversight agencies to implement the following SPF claims procedures:

- The state agency must decide whether a SPF claimant is eligible for relief within 60 days after they receive a complete SPF application.
- If the agency determines that a borrower is eligible, within 30 days the state agency should reimburse and/or pay-off all economic loss except: (1) when the borrower has submitted a federal discharge application that is pending; or (2) when the borrower is eligible for a federal discharge based on a school closure but has not submitted a closed school discharge application to the federal government. In these cases, the state agency should, at a minimum, reimburse and/or pay off all economic loss that is not related to financial aid awarded by the Department under Title IV of the Higher Education Act.
- When a borrower has submitted a related federal discharge application, it is reasonable to allow the state agency to delay awarding Title IV-related relief until after the borrower's application has been decided by the federal government.
- Similarly, when a borrower has not submitted a federal closed school discharge application but is eligible for a closed school discharge of his or her federal loans, it is reasonable to allow the state agency to delay awarding Title IV-related relief until after the borrower has submitted, and the Department has ruled on, a closed school discharge application.
- The state should then require the state agency to reimburse or pay off any Title IV-related aid not discharged by the federal government within 30 days after the federal government has decided any related federal discharge application.
- The state, however, should not wait more than one year for the Department to rule on a borrower's federal discharge application. The state should require that borrower's/claimant's assign their rights to any refund from a federal loan discharge to the state agency.¹¹⁶ Then, after one year, the state should refund the amounts the borrower has paid on his or her federal loans and pay off any outstanding

federal debt. If the federal government later grants the borrower's discharge application, the Department should then pay any refund to the state agency in order to reimburse the SPF.

By providing for timely relief, including in two stages when a borrower has submitted a federal discharge application, the state will ensure that borrowers may continue their education at quality institutions or otherwise move on with their lives unhindered by debt, without having to wait years for a resolution.

11. State agencies should ensure and facilitate widespread student access to SPF relief.

To maximize SPF relief to students, states should ensure that their SPF laws are implemented in a way that helps defrauded students obtain that relief.

- **Notice to Students:** Students will only benefit from a SPF if they know that it exists and that they may file a claim. Thus, state law should require that state agencies provide notice regarding SPF funds, eligibility, and claim forms in writing and electronically to all potentially eligible students upon any event that creates SPF eligibility.¹¹⁷ As previously discussed,¹¹⁸ notice should be provided to students when a school closes, when an attorney general obtains a judgment for restitution against a school that goes unpaid and that covers the student, or whenever any other event takes place that triggers eligibility and of which the state agency is aware.

To ensure that the state is able to provide this notice, state law should require schools to provide contact information for all students potentially eligible for SPF relief to the state agency upon any event creating SPF eligibility.

- **Documentation and Student Records:** States commonly focus only on maintaining student transcripts when a school suddenly closes.¹¹⁹ Students, however, need other school records to prove their SPF and federal discharge claims, including a record of all loans and grants, all cash paid to the school, all amounts charged to the student, attendance, withdrawal, and leave of absence records, enrollment agreements and all documents provided to the student before and upon enrollment. As an example, Arizona defines educational records that must be provided to the oversight agency upon closure as transcripts, "educational records of each student and former student and financial aid records of each student and former student."¹²⁰ Arizona regulations further define these records to include enrollment agreements, student attendance information, a record "of all obligations incurred and all funds paid by or on behalf of the student," and financial records for each student.¹²¹

State law should therefore require that schools or the state agency maintain all student financial aid, academic and other records for the amount of time during which a student may file a SPF claim (see Section III(7)). Arizona, for example,

requires that schools maintain student records “in perpetuity,” which is the best policy as there are no limitations periods on some types of federal student loan discharges, such as closed school and false certification discharges.¹²² To the extent that a school or subsequent owner cannot afford to maintain the records, the state should be required to do so. In addition, school records should be provided free of charge to students upon request. States should post on their websites forms and simple instructions allowing students to request their records.

- **Transparent and Accessible Claims Filing Process:** The claim filing process must be transparent and easy to complete. Information about how to file SPF claims, along with easy to complete forms with simple instructions, should be available online and in all languages in which licensed schools provide instruction.

Ideally, students should also be able to access free assistance with completing the claim forms and process. California has created an Office of Student Assistance and Relief, which is specifically charged with helping students obtain debt relief after they were subjected to illegal or deceptive school practices.¹²³ This Office helps students obtain the extensive documentation they need to complete their claims. Because it is important that this Office maintain its consumer protection mission and avoid conflict with students, it is housed in a separate state agency (the California Department of Consumer Affairs) and is not charged with recommending or making decisions on the SPF application.¹²⁴

In addition, California provides up to \$500 in reimbursement for legal services that lead to the cancellation of private or federal student loans.¹²⁵ While this amount is too low to cover the true cost of helping defrauded or closed school students seek student loan relief, it reimburses often underfunded legal services organizations for some of the costs they incur to do so. It also rewards efforts by legal services organizations to reduce amounts SPFs must expend to reimburse, pay-off or cancel federal or private student loans. And legal services can also reduce the amount of time that state agencies spend reviewing claims, by providing the necessary documentation. States should reimburse nonprofit legal service organizations that reduce SPF liability, but recognize their value by providing reimbursements in higher amounts than in California.

- **Appeal Process:** States should also provide an administrative appeal process, by which a claimant may appeal a denial of a claim or partially granted claims. This should include review by a neutral third party, and then appeal to a state court.

12. State agencies should provide periodic, public data regarding SPFs to state legislatures and governors.

Legislative and gubernatorial oversight of an agency's SPF administration is important. States should require agencies to provide periodic data to the legislature, governor and the public, including claim numbers, processing times and reasons for delays, outcomes, bases for eligibility of claims that are granted, bases for the denial of claims, amounts refunded, credited for future use, and/or cancelled, schools for which the agency has received claims, amounts remaining in the SPF, assessment amounts, costs of administration, number of schools who have failed to pay assessments, and the status of agency actions against those schools. Maryland, for example, requires its oversight agency to report to the governor and its legislature specified data regarding claims and institutions against which claims are made on an annual basis.¹²⁶

Such data is necessary to ensure that an agency is properly administering a SPF and that the SPF has sufficient funds to pay for all eligible claims. It can also help a legislature evaluate whether it should strengthen existing consumer protection laws applicable to postsecondary institutions.

IV. CONCLUSION AND RECOMMENDATIONS

Over the last 10 years, multiple for-profit schools have engaged in widespread fraud before closing their doors, leaving hundreds of thousands of students with worthless degrees, exorbitant student debts, and reduced eligibility for state and federal financial aid. Yet, while state Student Protection Funds have the potential to supplement the patchwork of incomplete federal student loan discharge laws and ensure full relief for these harmed students, most existing SPFs fall far short of this goal, while the majority of states completely lack SPFs. States should revisit and amend their laws to broaden access to complete relief through SPFs—for all grants, loans, and cash spent by students or on their behalf—so that students can restart their educations at legitimate high-quality colleges.

States should revisit and amend their laws to broaden access to complete relief through SPFs—for all grants, loans, and cash spent by students or on their behalf—so that students can restart their educations at legitimate high-quality colleges.

Recommendations

Among the SPF provisions states could enact to remedy the abuses experienced by many students of for-profit and some nonprofit schools, states should create SPFs or amend their laws to:

- maintain sufficient funds to pay all student claims and administrative costs;
- require each school to fund a surety bond sufficient to reimburse the SPF for losses caused by that school;
- be maintained as one single fund that covers all for-profit schools, including degree-granting schools and out-of-state schools offering distance education programs, as well as sham private nonprofit schools that financially benefit their board members or owners;
- provide relief to borrowers who suffer from illegal school conduct, not just from sudden school closures;
- provide eligibility to parents and other people who financially contributed to a student's education;
- establish a SPF claims limitations period, if any, that does not expire as long as any student debt holder can seek repayment from the student; and
- fully reimburse claimants for their total economic loss, including for all loans, grants, and cash obtained by them or on their behalf to allow them to enroll in a higher education program;
- provide relief based on group claims submitted by law enforcement agencies;
- timely resolve SPF applications;
- facilitate widespread student access to SPF relief through an easily accessible claims process; and
- provide periodic public data regarding SPFs to state legislators and governors.

Too many low-income students, many of whom are students of color, have suffered from egregious postsecondary school fraud, while their states have done little to protect them. Most remain on the hook for federal and private loans while losing their eligibility for GI Bill Funds, Pell Grants, and other types of grants that carry lifetime limits. States should step up to ensure that these students are made whole—so they and their families can recoup their financial losses and seek new, legitimate higher education opportunities. Enacting and implementing broad, remedial SPFs can provide enormous benefits to harmed students and their communities.

ENDNOTES

1. Spiros Protopsaltis and Sandy Baum, [Does Online Education Live Up to Its Promise? A Look at the Evidence and Implications for Federal Policy](#) (Jan. 2019).
2. See Collin Binkley, [While other colleges struggle, for-profit hopes for revival](#), Associated Press (Apr. 19, 2020); Taela Dudley, The Century Foundation, [College Marketing in the COVID-19 Economy](#) (Aug. 18, 2020).
3. See David Whitman, New America, [The Cautionary Tale of Correspondence Schools](#) (Dec. 11, 2018).
4. See Collin Binkley, [Judge slams DeVos for rejecting 94% of loan relief claims](#), AP News (Oct. 21, 2020).
5. See Section II(4), *infra*.
6. Adam Goldstein & Charlie Eaton, Berkeley Center for Studies in Higher Educ., [Asymmetry by Design? Identity Obfuscation, Reputational Pressure, and Consumer Predation in U.S. For-Profit Higher Education](#) at 3 (May 2020) (“Enrollment at Title IV eligible for-profits grew from less than 500,000 in the early 1990s to over 2 million in 2010. For-profits’ share of total post-secondary enrollment grew from 5 percent to 12 percent. . . .”) (citations omitted).
7. Nat’l Student Clearinghouse, [Fall 2020 Enrollment as of September 24, 2020](#) (undergraduate enrollments in for-profits up over 3% in 2020, in contrast to declines in enrollments in all other sectors, including a 9% decline in public community college enrollments; enrollment growth primarily in online sector); see also, Stephanie Riegg Cellini, The Brookings Institute, [The alarming rise in for-profit college enrollment](#) (Nov. 2, 2020).
8. See Center for Responsible Lending, [The State of For-Profit Colleges](#) (Jan. 29, 2019) (providing a state-by-state breakdown of for-profit college enrollments of low-income people, African-Americans, and women, as well as their low graduation rates, high debt loads, and higher default rates); see also Goldstein & Eaton, *supra* note 7, at 3 (52 percent of for-profit students come from households with less than \$30,000 in annual income) (citation omitted).
9. Dalié Jiménez & Jonathan Glater, [“Student Debt is a Civil Rights Issue: The Case for Debt Relief and Higher Education Reform,”](#) 55 Harv. C.R.-C.L. L. Rev. 131, 145-147 (Winter, 2020) (citations omitted).
10. See Nat’l Consumer Law Center, [Student Loan Law](#) Ch. 10 (6th ed. 2019).
11. 34 C.F.R. §§ 674.33(g) (Perkins Loans), 682.402(d) (Federal Family Education Program (FFEL) Loans), 685.214 (Direct Loans).
12. 34 C.F.R. §§ 685.206(c) (Direct Loans), 682.209(g) (FFEL Loans).
13. See 81 Fed. Reg. 75,926 (Nov. 1, 2016); see also [Order Denying Class Settlement, To Resume Discovery, and To Show Cause](#), *Sweet v. DeVos*, U.S. Dist. Ct., N. Dist. of Cal., Case No. C 19-03674 WHA (Oct. 19, 2020).
14. Order Denying Class Settlement, *supra* note 14, at 4.
15. *Id.* at 6, 14-15.
16. *Id.* at 17.
17. Adam Minsky, [In Victory for Borrowers, DeVos Agrees to Stop Issuing Mass Denials of Forgiveness Applications](#), Forbes.com (Nov. 24, 2020).
18. See, e.g., 34 C.F.R. § 685.222(b) (for Direct Loans made between July 1, 2017 and July 1, 2020).
19. 20 U.S.C. § 1001(a).

20. Rebecca Skinner, [Institutional Eligibility in Title IV Student Aid Programs Under the Higher Education Act: Background and Reauthorization Issues](#), Congressional Research Service Report RL33909 at CRS-11 (Mar. 9, 2007).
21. 20 U.S.C. § 1001(a)(2).
22. U.S. Senate Comm. on Health, Educ., Labor & Pensions, [For-Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success](#) at 122, 125, 126 (July 30, 2012) (hereinafter, “Senate HELP Report”).
23. For more discussion on the state government role in the triad, see Robyn Smith, Nat’l Consumer Law Center, [Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-Profit Schools](#) (June 2014).
24. See, e.g., Senate HELP Report, *supra* note 23.
25. Tariq Habash & Robert Shireman, [How College Enrollment Contracts Limit Students’ Rights](#) (Apr. 28, 2016). The Department recently repealed federal regulations that conditioned participation in the federal student loan program on an agreement not to use or enforce arbitration and class action clauses when students bring certain types of consumer protection and fraud claims. 84 Fed. Reg. 49,788 (Sept. 23, 2019).
26. Only the following states include private causes of action in their higher education consumer protection statutes: Kentucky, New York, Tennessee, Washington, and Wisconsin. See Children’s Advocacy Inst., Univ. of San Diego School of Law, [Failing U: Do State Laws Protect Our Veterans and Other Students from Predatory For-Profit Postsecondary Predators?](#) (Jan. 2018).
27. Only New York, Washington, and Wisconsin mandate the payment of attorneys’ fees to plaintiffs who prevail against for-profit schools in private causes of action under their higher education consumer protection statutes. See *id.*
28. Press Release, California Office of Attorney General, [“Attorney General Kamala D. Harris Obtains \\$1.1 Billion Judgment Against Predatory For-Profit School Operator”](#) (March 23, 2016).
29. See map, *supra* at 5. The following states require schools to both provide a bond and pay into a SPF: Arizona, Arkansas, Georgia, Indiana, Kentucky, Louisiana, Maryland, Nebraska, New York, North Carolina, Ohio, Tennessee, Texas, Virginia, and Wisconsin.
30. See map, *supra* at 5, and Appendix A.
31. See, e.g., Tenn. Code Ann. §§ 49-7-2013, 49-7-2018 (the same schools are subject to both bond and fund requirements; the bond provision provides indemnification for a claimant “determined to have suffered loss or damage as a result of any act or practice” that violates the statute, while the SPF provision provides reimbursement only for those students who are impacted by a school closure).
32. See, e.g. Ga. Code Ann. §§ 20-3-250.27, 20-3-250.3 (the provision governing surety bonds and the provision governing the Tuition Guaranty Trust Fund are both subject to the same exemptions); Tex. Admin Code tit. 19, § 7.8 (the bond requirement only applies to an “institution which is not accredited by a Board-recognized accreditor and which does not meet the definition of institution of higher education contained in the statute”), Tex. Educ. Code §§ 132.2415(b), 132.242 (tuition fund applies only to career schools and colleges).
33. See, e.g., Tenn. Code Ann. § 49-7-2013 (one-time payment of \$10,000 for in-state institutions and \$20,000 for out-of-state postsecondary institutions that provide all or part of their instruction in the state).
34. See Section II(4), *infra*.
35. Nev. Rev. Stat. § 394.480(1)(e).
36. See, e.g., Del. Code Ann. tit. 14, § 8505(b) (bond amount equal to the highest anticipated gross prepaid tuition for students enrolled on any given day in the calendar year); Iowa Code § 714.18(2)(a) (bond must be either \$50,000 or 10% of total annual collected tuition, whichever is less, for cosmetology and barber schools).

37. See, e.g., Mich. Admin. Code R. 390.562a (bond amounts based on number of students and accreditation status).
38. See, e.g., Ala. Code § 16-46-5(a) (bond based on number of enrolled students).
39. See, e.g., Colo. Rev. Stat. §§ 23-64-121 (applicable to private occupational schools offering associate degrees or less), 23-2-103.8 (applicable to private colleges or universities enrolling the majority of students in baccalaureate programs or higher).
40. See, e.g., Okla. Admin. Code § 565:10-9-1 (maximum bond of \$50,000 for private schools).
41. See, e.g., 9 Miss. Admin. Code Pt. 7 Appx. A (all private proprietary schools must provide \$50,000 surety bond).
42. Mass. Gen. Laws ch. 112, § 263(g) (schools must provide bond of \$5,000, but may be increased if the state auditor determines that the cash resources of the licensee may not be sufficient to make tuition refunds to students as required . . .); Minn. Stat. § 136A.822 (private career school must provide bond no less than \$10,000).
43. Wyo. Stat. Ann. § 21-2-405; Ala. Code § 16-46-5(e).
44. Kan. Stat. Ann. § 74.32,175; Mont. Admin. R. 24.121.605.
45. The Institute for College Access and Success, *Student Debt and the Class of 2019* (Sept. 2020).
46. For a description of full financial relief, see Section III(8), *infra*.
47. 81 Fed. Reg. 75,926, 79,985 (Nov. 1, 2016).
48. For a description of full financial relief, see Section III(9), *infra*.
49. See Section III(1) *infra*.
50. See Section III(5), *infra*.
51. See Section III(7), *infra*.
52. See Section III(2), *infra*.
53. Ariz. Rev. Stat. Ann § 32-3072(B) (“each private postsecondary education institution . . . shall annually pay an assessment to the board for each newly enrolled student in an amount equal to the sum of two-tenths of one per cent of the total course cost for each newly enrolled student”); La. Rev. Stat. Ann. 17:3140:11(B)(2) (initial payment of \$1,000 must accompany application for licensure, and subsequent, annual payments are calculated according to a graduated gross tuition schedule); Neb. Rev. Stat. § 85-1656(1) (“The board shall annually assess each private postsecondary career school one-tenth of one percent of the prior school year’s gross tuition revenue”); N.C. Gen. Stat. §§ 115D-95.1(d), (e), (h) (prior to first year of operation, school must pay an initial amount of \$1,250, and thereafter must annually pay an amount based on its annual gross tuition revenue).
54. Cal. Educ. Code § 94924. As of this writing, students are currently assessed a fee of \$0 because the California SPF is fully funded.
55. See, e.g., Ariz. Rev. Stat. Ann. § 32-3077(A) (oversight agency may suspend license of institution for failure to pay SPF assessment).
56. See, e.g., Cal. Educ. Code § 94911(b).
57. Cal. Educ. Code § 94925.
58. Fla. Stat. § 1005.37(7) (“The Student Protection Fund must be actuarially sound, periodically audited by the Auditor General in connection with his or her audit of the Department of Education, and reviewed to determine if additional fees must be charged to schools eligible to participate in the fund.”)
59. 20 U.S.C. § 1087II.
60. S.C. Code Ann. § 59-58-80(D).
61. Ga. Code Ann. § 20-3-250.27(e).
62. Cal. Educ. Code § 94925 (if the oversight agency has temporarily stopped collecting fund assessments because fund has reached the \$25,000,000 maximum, it shall resume collecting assessments when the fund falls below \$20,000,000). See *also*, Or Admin. R. §

- 715-045-0029(4) (“After disbursements made to settle claims reduce the operating balance below \$500,000, and recovery of such funds has not been ensured by the affected school within 30 days, the commission shall assess each licensee a pro rata share of the amount required to restore the balance in the fund to \$500,000.”).
63. See, e.g., Ariz. Rev. Stat. Ann. § 32-3074(C) (“Any monies unexpended and unencumbered in the fund at the close of a fiscal year shall not revert to the state general fund.”); Nev. Rev. Stat. § 394.553(7) (“The money in the Account does not lapse to the State General Fund at the end of any fiscal year.”).
 64. Ga. Code Ann. § 20-3-250.10(a).
 65. These include Corinthian Colleges, Inc., EDMC (Art Institutes, Argosy), Alta Colleges (Westwood College), Apollo Group (University of Phoenix), Bridgepoint Education (Ashford Univ.), Career Education Corp., DeVry Education Group, and ITT Educational Services (ITT Tech). See David Halperin, [Law Enforcement Investigations and Actions Regarding For-Profit Colleges](#), Republic Report (updated Jan. 3, 2019).
 66. See, e.g., Cal. Educ. Code §§ 94874(i), 94923(b)(2)(D) (one SPF for degree and non-degree granting schools).
 67. See, e.g., Ind. Code §§ 21-18.5-6-6 (degree-granting schools), 22-4.1-21-18 (non-degree granting schools); Md. Code Ann., Educ., § 11-203(d)(1) (separate funds for degree-granting for-profit schools and non-degree granting schools).
 68. See, e.g., Tex. Educ. Code Ann. §§ 132.051, 132.415 (only students of private postsecondary schools that offer non-degree programs eligible).
 69. See, e.g., Conn. Gen. Stat. §§ 10a-22a(1), 10a-22u, and 10a-22v; Fla. Stat. §§ 1005.02, 1005.37. See also Appendix A.
 70. See, e.g., Ind. Code §§ 21-18.5-2-12(a), 21-18.5-6-6; Tenn. Code Ann. §§ 49-7-2003, 49-7-2018(d). See also Appendix A.
 71. Ga. Code Ann § 20-3-250.27(c)(1).
 72. Neb. Rev. Stat. §§ 85-1603, 85-1604, 85-1657 (SPF for schools exclusively offering associates degrees or less), 85-2422 to 85-2428 (SPF for schools offering baccalaureate degrees or higher). See also Md. Code Ann., Educ. § 11-203(d)(1); Md. Regs. Code tit. 13B, §§ 01.01.02(16), 01.01.18 (SPF for private non-degree granting schools); Md. Regs. Code tit. 13B, § 02.02.03, 02.06.03 (SPF for degree-granting institutions).
 73. See, e.g. Ky. Rev. Stat. Ann. § 165A.450.
 74. See Robert Shireman, The Century Foundation, [How For-Profits Masquerade as Nonprofit Colleges](#) (Oct. 7, 2020); Robert Shireman, The Century Foundation, [How Purdue Global Got Its IRS Stamp of Approval](#) (Sept. 2, 2020).
 75. See Robert Shireman, The Century Foundation, [How For-Profits Masquerade as Nonprofit Colleges](#) (Oct. 7, 2020).
 76. Robert Shireman, The Century Foundation, [How Purdue Global Got Its IRS Stamp of Approval](#) (Sept. 2, 2020).
 77. See *id.*; see also David Halperin, [Big Win for Students: Colorado Court Slaps Carl Barney Colleges with \\$3 Million Fraud Verdict](#), Republic Report (Aug. 21, 2020) (regarding fraud verdict against two school chains that were converted by their owner from for-profit to non-profit status).
 78. Maryland Legislature, “Private Nonprofit Institution of Higher Education Protection Act of 2019,” House Bill. No. 461/Senate Bill No. 400, 2019 Md. Laws Chap. 515 (eff. June 1, 2019). See also Ashley Smith, [States Seek Tighter Regulation of For-Profits](#), InsideHigherEd.com (Mar. 14, 2019).
 79. Robin Howarth and Lisa Stifler, The Brookings Institution, [The Failings of Online For-profit Colleges: Findings from Student Borrower Focus Groups](#) at 1 (March 2019) (at this time, for-profit colleges enrolled 22% of all online-only undergraduate students and 27% of all online-only

- graduate students, while for-profit colleges enrolled only 5.4% of all undergraduates and 8.9% of all graduates).
80. See Appendix B.
 81. See *id.*
 82. Howarth & Stifler, *supra* note 81, at 1.
 83. See Unified State Authorization Reciprocity Agreement at 23, ¶¶ 5.1.5, 5.1.7 (Dec. 1, 2015) (hereinafter, “NC-SARA”), available at <https://www.nc-sara.org/content/sara-unified-agreement>. NCLC and others have expressed concerns about NC-SARA’s requirement that signatory states waive the applicability of state higher education consumer protection laws, include SPF requirements. For a discussion of why such limits are ill-advised, see *Comments from the Legal Aid Community to the Department of Education re: Proposed Regulations on Program Integrity and Improvement: State Authorization of Distance Education Programs* (Aug. 24, 2016). See also, Nat’l Consumer Law Center, *Wake-Up Call to State Governments: Protect Online Education Students from For-Profit School Fraud* (Dec. 2015).
 84. See Nat’l Council for State Authorization Reciprocity Agreements, *State Actions Regarding SARA*.
 85. Cal. Educ. Code § 94801.5.
 86. See Nat’l Council for State Authorization Reciprocity Agreements, *State Authorization Reciprocity Agreements Manual* § 2.5(h) at 18 (Ver. 20.3 Nov. 13, 2020).
 87. Or. Rev. Stat. § 345.010(3); Or. Admin. R. 715-045-0029(2)(a).
 88. See Appendix B.
 89. See *id.*
 90. See, e.g., Ind. Code § 21-18.5-6-6(a)(1) (fund provides indemnification for “the failure or neglect of the postsecondary credit bearing proprietary educational institution to faithfully perform all agreements, express or otherwise”); Md. Regs. Code tit. 13B, § 01.01.18(C)(1) (purpose of Guaranty Student Tuition Fund is to reimburse a student entitled to a refund because the institution failed to “[p]erform faithfully an agreement or contract with the student”), Md. Regs. Code tit. 13B, § 02.06.04(A)(2) (one purpose of Guaranty Student Tuition Fund for For-Profit Institutions of Higher Education is to provide a refund if the school fails to “[f]aithfully comply with all agreements and contracts that it makes with a student”).
 91. See, e.g., Cal. Educ. Code § 94923(b)(2)(F).
 92. See, e.g., Ind. Code §§ 21-18.5-6-6(a)(2), (a)(3) (fund provides indemnification for recruiters’ misrepresentations and “the failure or neglect of the postsecondary credit bearing proprietary educational institution to maintain and operate a course or courses of instruction or study in compliance with the standards of this chapter”); Nev. Rev. Stat. § 394.553(2)(b) (fund indemnifies student who has suffered damage due to the violation by an institution “of any provision of Nev. Rev. Stat. 394.383 to 394.560, inclusive [includes minimum standards], or the regulations adopted pursuant thereto.”).
 93. Cal. Educ. Code § 94923(b).
 94. See, e.g., Kara Kenney, *New effort to help Indiana students impacted by closing colleges*, RTV 6 Indianapolis (Mar. 6, 2019) (story regarding Art Institute students who completed their programs but did not receive their diplomas or degrees before their campuses closed).
 95. For example, California law covers “[a] student who has been awarded restitution, a refund, or other monetary award by an arbitrator or court, based on a violation of this chapter by an institution or representative of an institution, but who has been unable to collect the award from the institution.” Cal. Educ. Code § 94923(b)(2)(F).
 96. See, e.g., Cal. Code of Regs. tit. 5, § 76212 (2019) (state agency, state attorney general, or other law enforcement agency may file claim on behalf of students).
 97. Ga. Code Ann. §§ 20-3-250.14(c), 20-3-250.27(d)(6).
 98. NY Educ. Law § 5007(7).

99. See, e.g., N.C. Gen. Stat. § 115D-95.1(j) (student's parent or guardian eligible for SPF relief).
100. See, e.g., Ga. Nonpublic Postsecondary Educ. Comm'n, [Policy 13: Tuition Guaranty Trust Fund Claims](#) (six months); Ariz. Rev. Stat. Ann. § 32-3075(A) (one year); Conn. Gen. Stat. § 10a-22v (two years); Ind. Code § 21-18.5-6-20(d) (five years).
101. See, e.g., Cal. Educ. Code § 94923(f).
102. Tenn. Comp. R. & Regs. 1710-01-02.09(1)(a)(2) (2019) (a valid claim includes "tuition, registration, general graduation, activity, or other fees that are required to be paid by all students attending a particular institution" but that "[m]onies for expenses such as housing, meals, clothing and transportation, not paid directly to and retained by the institution shall not be reimbursable.")
103. See Fla. Admin. Code Ann r. 6E-4.005 (funds paid only to institutions that provide teach-out to a student after his/her school has closed).
104. Cal. Educ. Code § 94923(f).
105. Cal. Educ. Code § 94923(d).
106. See Cal. Bureau for Private Postsecondary Educ., [Application for Student Tuition Recovery Fund](#) at 9.
107. See, e.g., La. Rev. Stat. Ann. § 17:3140.11(D)(2) ("Claims against the fund shall be considered from currently enrolled students only when there is a lack of availability for that student to transfer for the time remaining in his course of study, at no additional cost, to a similar program within the student's local area, as determined by the Advisory Commission on Proprietary Schools."); Tenn. Comp. R. & Regs. 1710-01-02-.09(1)(a)(1) ("Students who are eligible for the approved teachout option . . . shall not be eligible for reimbursement from the fund . . ."); 8 Va. Admin. Code 40-31-310(E) ("The director will attempt to secure a teach-out agreement as outlined in 8 VAC 40-31-280(C)(4) prior to issuing a refund of the unearned tuition to a student unable to complete a program of study due to a school closure. If a teach-out agreement cannot be secured, the director shall proceed with a claim against the closed school's surety instrument.").
108. Wash. Rev. Code § 28C.10.084(10)(b)(iii) ("If the claimant provides evidence to the agency of the lack of availability to continue his or her program of study at another institution, the agency's executive director or the executive director's designee has the authority to reimburse the student, agency, or business up to the full value of tuition and fees paid to date").
109. For a fuller discussion of why teach-outs are not necessarily the best option for students harmed by a school closure, see [Comments from the Legal Aid Community to the Department of Education re: Proposed Regulations on Borrower Defenses and Use of Forced Arbitration Clauses by Schools in the Direct Loan Program, and Proposed Amendments to Closed School and False Certification](#) (Aug. 30, 2019).
110. See, e.g., 34 C.F.R. § 685.214(c).
111. See *id.*
112. While this is not provided for in the statute or regulations, the Cal. Bureau for Private Postsecondary Education has stated that it provides partial reimbursement to students who transfer some, but not all, credits after a school closure and has in fact granted such partial relief to clients of the Legal Aid Foundation of Los Angeles.
113. U.S. Gov't Accountability Off., GAO-19-553T, [GI Bill: Veterans Affected by School Closures](#) 9 (Jun 19, 2019).
114. N.Y. Educ. Law § 5007(3)(c).
115. See Section III(9), *supra*.
116. States often require claimants to assign all causes of action they have against the school
117. See, e.g., Wash. Rev. Code § 28C.10.084(10)(b)(i) (agency required to provide notice to "all potential applicants" after a school closure).

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118. States typically require that SPF claimants to assign their claims against schools and loans holders to the state agency. *See* Section III(10), *supra*.
 119. *See, e.g.*, Wis. Stat. § 440.52(11) (only requires maintenance of students transcripts in case of school closures).
 120. Ariz. Rev. Stat. Ann. § 32-3058.
 121. Ariz. Admin. Code R4-39-401(B).
 122. *Id.* R4-39-401(G).
 123. Cal. Educ. Code §§ 94949.7-94949.73.
 124. *Id.*
 125. Cal. Educ. Code § 94923(b)(2)(G).
 126. Md. Code Ann., Educ. § 11-203(e).

APPENDIX A

States with Student Protection Funds (SPFs)

State	# of SPFs	Are Students of For-profit Schools with Physical Presence Eligible?	Are Students of Nonprofit Schools with Physical Presence Eligible?	Students Eligible Based on School Closure	Students Eligible for Reasons Other Than School Closure
AZ	1	Y, except students of schools that are accredited by regional or specialized accrediting agency ¹	Y, except students of schools that are accredited by regional or specialized accrediting agency ²	Y	N
AR	1	Y, except students of degree-granting schools ³	Y, except students of degree-granting schools ⁴	Y	N
CA	1	Y, except students of schools accredited by the Western Association of Schools and Colleges (WASC) (but Heald College students still eligible) ⁵	Y, except students of schools accredited by WASC ⁶	Y	Y
CT	1	Y, except students of degree-granting schools ⁷	Y, except students of degree-granting schools ⁸	Y	N
FL	1	Y, except students of degree-granting schools ⁹	Y, except students of degree-granting schools ¹⁰	N ¹¹	N
GA	1	Y ¹²	Y ¹³	Y	N
IN	2	Y ¹⁴	Y, except students of out-of-state schools and some regionally accredited and privately endowed degree-granting schools ¹⁵	Y	Y
KY	1	Y, except students of schools granting baccalaureate degrees or higher ¹⁶	Y, except students of schools granting baccalaureate degrees or higher ¹⁷	Y	Y

1. Ariz. Rev. Stat. Ann. § 32-3072(D).

2. *Id.*

3. Ark. Code Ann. §§ 6-51-605(b), 6-61-301. See also, [Arkansas's responses](#) to survey from Nat'l Council for State Authorization Reciprocity Agreements, Question 2E1.

4. Ark. Code Ann. §§ 6-51-605(b), 6-61-301. See also, [Arkansas's responses](#) to survey from Nat'l Council for State Authorization Reciprocity Agreements, Question 2E1.

5. Students who attend a school accredited by WASC are not eligible for reimbursement from California's SPT, except for some Heald University students after its owner, Corinthian Colleges, Inc., collapsed and the California legislature amended the law to cover them. Cal. Educ. Code §§ 94874(i), 94923(b)(2)(D).

6. *Id.*

7. Conn. Gen. Stat. §§ 10a-22a(1), 10a-22u.

8. *Id.*

9. Fla. Stat. Ann. §§ 1005.02, 1005.02, 1005.37; Fla. Admin. Code Ann. R. 6E-4.005.

10. *Id.*

11. SPF funds may only be paid directly to schools where eligible students enroll to complete their programs after school closure. *Id.* § 1005.37.

12. Ga. Code Ann. §§ 20-3-250.2(18), 20-3-250.27.

13. *Id.*

14. Ind. Code §§ 21-18.5-2-12, 21-18.5-6-6, 22-4.1-21-9, 22-4.1-21-18.

15. Ind. Code §§ 21-18.5-2-12(b), 21-18.5-6-6, 22-4.1-21-9, 22-4.1-21-18.

16. Ky. Rev. Stat. Ann. §§ 1651.310, 165A.320.

17. *Id.*

States with Student Protection Funds (SPFs) (cont.)

State	# of SPFs	Are Students of For-profit Schools with Physical Presence Eligible?	Are Students of Nonprofit Schools with Physical Presence Eligible?	Students Eligible Based on School Closure	Students Eligible for Reasons Other Than School Closure
LA	1	Y, except students of schools exclusively granting baccalaureate degrees or higher ¹⁸	Y, except students of schools exclusively granting baccalaureate degrees or higher ¹⁹	Y	N
MD	1 ²⁰	Y, except students of degree-granting schools ²¹	Y, except students of degree-granting schools ²²	Y	Y
NE	2	Y ²³	Y, except students of schools offering baccalaureate degrees or higher ²⁴	Y	N
NV	1	Y ²⁵	Y ²⁶	Y	Y
NY	1	Y, except students of degree-granting schools ²⁷	Y, except students of degree-granting schools ²⁸	Y	Y
NC	1	Y, except students of degree-granting institutions ²⁹	N ³⁰	Y	N
OH	1	Y, except students of certain accredited schools that grant baccalaureate or higher degrees ³¹	Y, except students of schools that offer instruction in broad specific areas defined by statute ³²	Y	N
OR	1	Y, except students of degree-granting schools ³³	Y, except students of degree-granting schools ³⁴	Y	N
TN	1	Y ³⁵	Y, except students of some accredited schools ³⁶	Y	N

18. La. Rev. Stat. Ann. §§ 17:3141.2, 17:3141.16.

19. *Id.*

20. Md. Code Ann., Educ., § 11-203(d)(1). While 2 SPFs are authorized, the agency has only set up one SPF for the non-degree granting school students.

21. *Id.*

22. *Id.*

23. Neb. Rev. Stat. §§ 85-2403(6), 85-2423, 85-1603(17), 85-1657.

24. *Id.* §§ 85-2403(6), 85-2423.

25. Nev. Rev. Stat. § 394.099, 394.553.

26. *Id.*

27. NY Educ. Law §§ 5001(1), (2)(a), 5007. Legislation was introduced in 2019 to create a SPF for proprietary degree-granting institutions, but the bill was not enacted. New York Senate, 2019-2020 Reg. Session, Bill No. 5562 (introduced May 1, 2019).

28. NY Educ. Law §§ 5001(1), (2)(a), 5007.

29. N.C. Gen. Stat. §§ 115D-87(2), 115D-95.1.

30. While the law defines proprietary schools to include non-degree granting nonprofit charitable organizations (N.C. Gen. Stat. § 115D-87(2)), North Carolina reports that nonprofit schools are not covered by the law. See [response of the Office of Proprietary Schools, North Carolina Community College System](#) to survey from Nat'l Council for State Authorization Reciprocity Agreements, Question 2A1.

31. Ohio Rev. Code Ann. §§ 3332.02(H), 3333.046.

32. *Id.* §§ 3332.02(B), 1713.01(A).

33. Or. Rev. Stat. §§ 345.015(10), 348.603.

34. *Id.*

35. Tenn. Code Ann. §§ 49-7-2003, 49-7-2018.

36. *Id.* §§ 49-7-2003, 49-7-2004, 49-7-2018.

States with Student Protection Funds (SPFs) (cont.)

State	# of SPFs	Are Students of For-profit Schools with Physical Presence Eligible?	Are Students of Nonprofit Schools with Physical Presence Eligible?	Students Eligible Based on School Closure	Students Eligible for Reasons Other Than School Closure
TX	1	Y, except students of degree-granting programs ³⁷	Y, except students of degree-granting programs ³⁸	Y	N
WA	2	Y, except students of some accredited degree-granting schools ³⁹	Y, except students of some accredited degree-granting schools ⁴⁰	Y	Y for non-degree granting schools; ⁴¹ N for degree-granting schools ⁴²
WI	1	Y ⁴³	Y, except some accredited in-state non-profit schools ⁴⁴	Y	Y ⁴⁵

37. Tex. Educ. Code Ann. §§ 61.304(a) (Tex. Higher Educ. Coordinating Board approves private postsecondary schools for the purpose of offering degree programs; state law provides no SPF fund for these students), 132.051, 132.415 (Tex. Workforce Comm'n administers SPF for private postsecondary schools that offer non-degree programs).

38. *Id.*

39. Wash. Rev. Code § 28B.85.040(3)(b).

40. *Id.*

41. *Id.*

42. *Id.* § 28B.85.040(3).

43. Wis. Stat. § 440.52(1)(e)(9).

44. *Id.* § 440.52(1)(e)(1), (9).

45. Wis. Admin. Code [Safety and Prof. Servs.] § 404.06(3)(a).

APPENDIX B

Distance Education and Student Protection Fund Eligibility

Updated as of March 28, 2025

Most student protection fund (SPF) laws were drafted before the emergence of online education and the [Uniform State Authorization Reciprocity Agreement](#) (NC-SARA). This is a reciprocity agreement among states. In the agreement, the member states—all states, except California—agree that they will automatically approve a nationally accredited school that exclusively offers distance education and lacks an in-state physical presence whenever the school is approved by the member state where the school is legally domiciled and accredited. NC-SARA prohibits member states from imposing their higher education consumer protection laws against out-of-state schools approved through NC-SARA.¹ It also prohibits them from charging fees to those schools, including SPF fees.² Only the home state where the school is legally domiciled may charge SPF fees to NC-SARA schools.³

This chart identifies which states provide SPF eligibility to private for-profit and nonprofit school students who enroll in programs taught exclusively through distance education. For most of the exceptions, unless otherwise noted, please refer to Appendix A of this report for citations.

State	OUT-OF-STATE SCHOOLS Distance Education Schools that Lack a Physical Presence		IN-STATE SCHOOLS Distance Education Schools with a Physical Presence	
	In-state Students of NC-SARA Schools?	In-state Students of Schools that are not NC-SARA Schools?	In-state Students?	Out-of-state Students?
AZ	N	N ⁴	Y, except students of schools that are accredited by regional or specialized accrediting agency	N ⁵
AR	N	Y, ⁶ except students of degree-granting schools	Y, except students of degree granting schools	N ⁷
CA	Y	Y, ⁸ except students of schools accredited by the Western Association of Schools and Colleges (WASC)	Y, except students of schools accredited by WASC	N

1. See Robyn Smith, Nat’l Consumer Law Center, [Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-Profit Schools](#) (June 2014).

2. See Nat’l Council for State Authorization Reciprocity Agreements, [State Authorization Reciprocity Agreements Manual](#) §§ 1(20) at 4 & 3.6 at 23 (Ver. 24.2 Dec. 16, 2024).

3. The NC-SARA manual only requires states to have “laws, regulations, policies and/or processes in place to deal with the unanticipated closures of an institution and . . . make every reasonable effort to assure that students receive the services for which they have paid or reasonable financial compensation for those not received[, which] may include tuition assurance funds, surety bonds, teach-out provisions or other practices deemed sufficient to protect consumers.” *Id.* § 2.5(g) at 10.

4. *Ariz. Rev. Stat. Ann.* § 32-3001(5) (definition of “operate” requires physical presence in Ariz.).

5. *Id.* § 32-3075(B) (non-residents enrolled in “distance learning instruction” not eligible).

6. *Ark. Code Ann.* § 6-51-607 (schools only pay into SPF for Ark. residents).

7. *Id.*

8. *Cal. Educ Code* § 94801.5.

Which Distance Education Students Are Eligible For Relief From SPF Funds? (cont.)

State	OUT-OF-STATE SCHOOLS Distance Education Schools that Lack a Physical Presence		IN-STATE SCHOOLS Distance Education Schools with a Physical Presence	
	In-state Students of NC-SARA Schools?	In-state Students of Schools that are not NC-SARA Schools?	In-state Students?	Out-of-state Students?
CT	N	Y, ⁹ except students of degree-granting schools	Y, except students of degree-granting schools	N ¹⁰
FL	N	Y, ¹¹ except students of degree-granting schools	Y, except students of degree-granting schools	N ¹²
GA	N	Y ¹³	Y	Y ¹⁴
IA	N	N ¹⁵		
IN	N	Y, ¹⁶ except students of nonprofit degree-granting schools	Y, except students of out-of-state nonprofit schools and regionally accredited, privately endowed schools with their principal campus in Indiana that grant 2- or 4-year degrees	Y, ¹⁷ except students of out-of-state nonprofit schools and regionally accredited, privately endowed schools with their principal campus in Indiana that grant 2- or 4-year degrees
KY	N	N ¹⁸	Y, except students of schools granting baccalaureate degrees or higher	N ¹⁹
LA	N	Y, ²⁰ except students of schools exclusively granting baccalaureate degrees or higher	Y, except students of schools exclusively granting baccalaureate degrees or higher	Y, ²¹ except students of schools exclusively granting baccalaureate degrees or higher

9. Conn. Gen. Stat. §§ 10a-22a(1) (law applies to any private occupational school “offering or advertising vocational instruction” in Conn.). See also [Connecticut's responses](#) to survey from Nat'l Counsel for State Authorization Reciprocity Agreements, Topic 8(b).
10. Conn. Gen. Stat. § 10-22u(a).
11. Fla. Stat. Ann. § 1005.06(1)(h).
12. Fla. Admin. Code Ann. r. 6E-4.005 (schools pay into SPF based only on income from Florida students).
13. Ga. Code Ann. §§ 20-3-250.2(26), 20-3-250.27(c)(1) (law covers institutions “operating” in state; operating defined to include offering distance education).
14. *Id.* §§ 20-3-250.2(11.1), 20-3-250.27 (schools pay into SPF funds based on gross tuition, including for non-Georgia students; out-of-state residents not excluded from eligibility).
15. Iowa Code §§ 261B.2, 261B.3, 261B.8 (only schools with physical presence in Iowa pay fees that may be used to reimburse students whose schools close).
16. Ind. Code §§ 21-18.5-2-12(a) (law applies to degree-granting institutions that provide “instructional or educational services or training, whether onsite, online, or through any combination of these or other modalities”); 21-18.5-6-2 (a person may “not do business . . . in Indiana” as a degree-granting institution unless authorized, no physical presence requirement in statute); 22-4.1-21-9 (law applies to non-degree granting institutions “doing business in Indiana by offering to the public, for a tuition, fee, or charge, instructional or education services or training . . . in the recipient’s home, at a designated location, or by mail”; no physical presence requirement in statute).
17. *Id.* §§ 21-18.5-6-20; 22-4.1-21-35 (eligibility not limited to Indiana residents).
18. Ky. Rev. Stat. Ann. §§ 165A.360(1), 165A.450.
19. *Id.* § 165A.450(a) (only Kentucky residents eligible).
20. La. Rev. Stat. Ann. § 17:3140.1(6).
21. La. Rev. Stat. Ann. § 17:3141.11 (eligibility not limited to Louisiana residents).

Which Distance Education Students Are Eligible For Relief From SPF Funds? (cont.)

State	OUT-OF-STATE SCHOOLS Distance Education Schools that Lack a Physical Presence		IN-STATE SCHOOLS Distance Education Schools with a Physical Presence	
	In-state Students of NC-SARA Schools?	In-state Students of Schools that are not NC-SARA Schools?	In-state Students?	Out-of-state Students?
MD	N	Y, ²² except students of degree-granting schools	Y, except students of degree-granting schools	N ²³
NE	N	Y, ²⁴ except students of nonprofit schools offering baccalaureate degrees or higher	Y, except students of nonprofit schools offering baccalaureate degrees or higher	Y, ²⁵ except students of nonprofit schools offering baccalaureate degrees or higher
NV	N	N ²⁶	Y	Y ²⁷
NY	N	Y, ²⁸ except students of degree-granting schools	Y, except students of degree-granting schools	Y, ²⁹ except students of degree-granting schools
NC	N	N ³⁰	Y, except students of degree-granting schools and nonprofit non-degree granting schools	N ³¹
OH	N	Y ³²	Y, except students of certain accredited for-profit schools that grant baccalaureate or higher degrees and students of nonprofit schools that offer instruction in broad specific areas defined by statute	Y, ³³ except students of certain accredited for-profit schools that grant baccalaureate or higher degrees and students of nonprofit schools that offer instruction in broad specific areas defined by statute
OK	N	Y, ³⁴ except schools that do not offer degrees	Y, except schools that do not offer degrees	Y, except schools that do not offer degrees
OR	N	Y, ³⁵ except students of degree-granting schools	Y, except students of degree-granting schools	N, unless student attended a non-degree-granting school and is not eligible for relief from another state's SPF ³⁶

22. Md. Code Ann., Educ., § 11-203(d)(1)(ii).

23. Md. Regs. Code tit. 13B, § 02.06.02 (eligibility limited to Maryland residents).

24. Neb. Rev. Stat. §§ 85-2403(9)(a), 85-1603(17) (law applies to school which “offers a course of study or instruction for which tuition is charged”).

25. *Id.* §§ 85-1657, 85-2426 (eligibility not limited to Nebraska residents).

26. Nev. Rev. Stat. § 394.091 (defining “operate” as requiring a physical presence in Nevada).

27. *Id.* § 394.553 (eligibility not limited to Nevada residents).

28. NY Educ. Law §§ 5001(1) (law applies to school “which charges tuition or fees related to instruction and which is not exempted”), 5007.

29. *Id.* § 5007 (eligibility not limited to New York residents).

30. N.C. Gen. Stat. § 115D-87(2) (law applies only to schools with physical presence in North Carolina).

31. SPF payments are calculated based on upon “annual gross tuition revenue generated in-state.” N.C. Gen. Stat. § 115D-95.1.

32. Ohio Admin. Code 3332.-1-19(B) (out-of-state schools must contribute to SPF for Ohio residents they enroll).

33. Statute does not limit eligibility to Ohio residents; Ohio Rev. Code Ann. § 3332.082.

34. Okla. Stat. Ann. tit. 70, § 4103.

35. Or. Rev. Stat. § 345.030(1) (“A person may not open, conduct or do business as a career school in this state without obtaining a license . . .”). See also [Oregon's responses](#) to survey from Nat'l Council for State Authorization Reciprocity Agreements, Topic 8(b).

36. Or. Admin. R. 715-045-0029.

Which Distance Education Students Are Eligible For Relief From SPF Funds? (cont.)

State	OUT-OF-STATE SCHOOLS Distance Education Schools that Lack a Physical Presence		IN-STATE SCHOOLS Distance Education Schools with a Physical Presence	
	In-state Students of NC-SARA Schools?	In-state Students of Schools that are not NC-SARA Schools?	In-state Students?	Out-of-state Students?
TN	N	N ³⁷	Y, except students of some nonprofit accredited schools	N, unless students are Tenn. residents and attend a location of a licensed school outside of Tenn., ³⁸ except for students of some accredited schools
TX	N	Y, ³⁹ except students of schools that are accredited, award degrees, and are physically located in and approved by another state ⁴⁰ and students of degree-granting programs	Y, except students of degree- granting programs	Y, ⁴¹ except students of schools that are accredited, award degrees, and are physically located in and approved by another state and students of degree- granting programs
WA	N	Y, ⁴² except students of some accredited degree-granting schools	Y, except students of some accredited degree-granting schools	N, ⁴³ except students of some degree-granting schools ⁴⁴
WI	N	Y ⁴⁵	Y, except some accredited non-profit schools	Y, ⁴⁶ except students of some accredited nonprofit schools

37. Tenn. Code Ann. § 49-7-2003(18) (“‘To operate’ an educational institution . . . means to establish, keep or maintain any facility or location in this state where, from or through which education is offered or given or educational credentials are offered or granted . . .”).

38. *Id.* § 49-7-2018(a)(1) (intended to cover “students who reside in Tennessee or attend an authorized location with a Tennessee address”); see also [Tennessee Higher Educ. Commission \(THEC\) Division of Postsecondary State Authorization \(DPSA\) Tennessee Tuition Guaranty Fund \(TGF\) Claim Application](#) (a student is eligible “only when the closing institution is authorized by THEC and (1) a student attended a physical location of the school in Tennessee or (2) a student is a Tennessee resident and attended a location of the institution outside of Tennessee.”).

39. Tex. Educ. Code Ann. § 132.001(1)(A) (career school or college “means any business enterprise operated for a profit or on a non-profit basis that maintains a physical place of business or solicits business within this state . . . that offers or maintains a course or courses of instruction or study; or at which place of business such a course or courses of instruction are available through classroom instruction or by distance education . . .”).

40. *Id.* § 132.001(1)(B).

41. *Id.* §§ 132.001(1), 132.2415 (eligibility not limited to Texas residents; applies to out-of-state non-degree granting schools).

42. Wash. Admin. Code § 250-61-145(3)(b) (non-exempt degree granting institutions); Wash. Rev. Code § 28C.10.020(12) (applicable to non-degree-granting institutions, “‘To operate’ means to establish, keep or maintain any facility or location where, from, or through which education is offered or educational credentials are offered . . .”).

43. Wash. Rev. Code § 28C.10.082 (SPF relief may only be provided to Wash. residents).

44. Wash. Rev. Code §§ 28B.85.230, 288.85.240 (eligibility not limited to Wash. residents).

45. Wis. Stat. § 440.52(1)(e)(9).

46. *Id.* § 440.52(10)(c)(4) (eligibility not limited to Wisconsin residents).

APPENDIX C

CHECKLIST TO EVALUATE A STATE STUDENT PROTECTION FUND (SPF)

1. Does the SPF have sufficient funding?

- ☐ Current amount in SPF: \$_____
- ☐ SPF minimum: \$_____.
- ☐ SPF cap: \$_____.
- ☐ State has process for estimating and updating amount of funds necessary to pay for costs of student relief and administration.
- ☐ Agency required to take action against school that fails to pay into SPF.
- ☐ Agency has discretion to levy and set amount of SPF assessments.
- ☐ SPF fund not available to state's general fund.

2. Does state law require schools to post surety bond to:

- ☐ Indemnify SPF losses
- ☐ Reimburse agency for administration of SPF claims from school's students

3. Are students of the following schools eligible for relief?

- ☐ All for-profit degree-granting institutions
- ☐ All for-profit non-degree granting institutions
- ☐ All private nonprofit non-degree granting institutions that generate profits for owners or board members
- ☐ All private nonprofit degree granting institutions that generate profits for owners or board members
- ☐ In-state students enrolled in distance education programs offered by out-of-state schools that lack a physical presence
- ☐ Out-of-state students enrolled in distance education programs offered by schools whose physical headquarters is located in-state

4. ☐ Are the above students covered by one SPF?

5. Does SPF provide relief to students based on the following?

- ☐ Student unable to complete program due to school closure
- ☐ Student unable to complete program due to program discontinuance, including students on a leave of absence
- ☐ Student unable to obtain their diploma or degree after school has closed, even though student completed his/her program
- ☐ Student withdrew from a school within 180 days of the school or campus closure, or a period commensurate with any longer federal period as determined by the U.S. Department of Education or state agency
- ☐ State agency has determined that the school violated any state consumer protection law, including a state's Unfair and Deceptive or Abusive Practices (UDAP) law or higher education consumer protection law, based on a preponderance of the evidence presented to the agency
- ☐ School failed to pay a refund ordered by state agency
- ☐ State agency has determined that the school breached the enrollment agreement
- ☐ Student withdrew from a program before completion and institution failed to pay or refund tuition loan or grant proceeds as required by federal or state law
- ☐ School failed to pay judgment or arbitration award granting monetary relief to students based on violation of state law
- ☐ School lost institutional accreditation
- ☐ Program lost the accreditation necessary to find employment after graduation
- ☐ U.S. Department of Education or a guaranty agency granted the student's borrower defense claim

6. Group Claims and Automatic Relief – Does the SPF law authorize:

- ☐ State attorney general, state agency or other government agency to file a group claim based on judgment or administrative findings?
- ☐ State agency to grant claims automatically, without an application from students?

7. ☐ Are people who financially contributed to a student's education eligible for SPF relief?

8. Is there a limited time period for filing SPF claims?

- ☐ No claims period
- ☐ Students may file claims as long as they are facing private student loan debt collection
- ☐ Other: _____
- ☐ Does the law specify that the limitations period does not begin to run, for events of which a state agency should be aware, until the state agency notifies students of their potential eligibility?

9. SPF Relief:

a. Does the SPF cover all of the following?

- ☐ Full amount of federal loans
- ☐ Full amount of private loans
- ☐ All cash paid by student to school
- ☐ All local, state and federal grants, funds or monies paid to the school or student
- ☐ All third-party payments, including payments made by private entities, paid to the school or student
- ☐ All cash paid by student to obtain instructional equipment and supplies

b. Teach-outs and transfers:

- ☐ Students who enroll in teach-outs are eligible for full relief unless they complete teach-outs approved by accrediting agency and state
- ☐ Students who transfer credits are eligible for full or partial relief unless they transfer all credits and complete the same or similar program at another school

10. Does state law require timely resolution of SPF applications?

- ☐ State agency must decide eligibility of student receiving completed application within _____ days
- ☐ State must provide relief on all non-federal sources of granting application within _____ days
- ☐ State does not delay awarding relief for federal financial aid more than one year

11. SPF Claim Procedures:

- ☐ School required to provide contact information to state for all students potentially eligible for SPF relief
- ☐ State must notify all potentially eligible students regarding SPF relief and process
- ☐ School or state required to maintain all student records for as long as a student is eligible to apply for SPF relief (at least 10 years)
- ☐ If school is not able to maintain student records, then state is required to maintain them
- ☐ School and/or state required to provide student records at no charge to students
- ☐ Clear and readable information about how to file SPF claims must be available online and in all languages in which licensed schools provide instruction
- ☐ Application must be easy for students to complete and be available in all languages in which licensed schools provide instruction
- ☐ A government office separate from the oversight agency is charged with helping students complete and submit SPF claims
- ☐ Legal services who help students obtain private or federal loan discharges are eligible for reimbursement for their legal services from the SPF

12. ☐ Are state agencies required to publicly report annual SPF data?



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