

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CHRISTOPHER QUERO, COURTNEY
FRANCIS, and KELLIN RODRIGUEZ,
individually and on behalf of all persons similarly
situated,

Plaintiffs,

-against-

ELISABETH DEVOS, in her official capacity as
Secretary of the United States Department of
Education,

Defendant.

No. 18-cv-9509

**CLASS ACTION
COMPLAINT**

PRELIMINARY STATEMENT

1. Named Plaintiffs Christopher Quero, Courtney Francis, and Kellin Rodriguez, and members of the proposed class, obtained federal student loans to attend the Technical Career Institutes, Inc. (“TCI”), a for-profit college in Manhattan. On September 1, 2017, TCI suddenly shut down, leaving Plaintiffs unable to complete their programs of study.

2. Federal student loan borrowers who, like Plaintiffs, attend a school that closes may be eligible for a “closed school discharge” of the loans they obtained to attend the closed school. A closed school discharge relieves the borrower of any repayment obligation, refunds to the borrower any money already paid, and removes those loans from the borrower’s credit report.

3. Federal regulations provide that when a school closes, Defendant Elisabeth DeVos (the “Secretary”), as Secretary of the United States Department of Education (the “Department”), must notify all potentially eligible borrowers about the availability of a closed

school discharge by mailing each borrower the discharge application form and an explanation of the qualifications and procedures for obtaining the discharge. Upon doing so, the Department must suspend collection on affected loans for sixty days.

4. When TCI closed, however, the Department did not mail the application form to Plaintiffs or suspend collection on their loans.

5. Plaintiffs have twice written the Department to demand that the Department notify eligible borrowers and suspend collection, as required. The Department has refused to take this action.

6. As a result of the Department's failure and refusal to send notices and suspend collection, members of the putative class remain unaware of the availability of a closed school discharge and are subject to ongoing collection on their TCI loans, which can harm their credit and impair their ability to obtain student loans in the future.

7. Plaintiffs bring this action on behalf of themselves and a class of similarly situated borrowers under the Administrative Procedure Act, 5 U.S.C. § 706, seeking an injunction directing Defendant to send all class members notice of their potential eligibility for closed school discharge of their TCI loans and to suspend collection on those loans, and a declaration that the Defendant has unlawfully withheld agency action and acted arbitrarily and capriciously and otherwise not in accordance law.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, the Administrative Procedure Act, 5 U.S.C. § 702, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because one or

more Plaintiffs resides in this district, a substantial part of the events giving rise to these claims occurred in this district, and Defendant has a regional office in this district.

PARTIES

10. Plaintiff Christopher Quero lives in the Bronx, New York.
11. Plaintiff Courtney Francis lives in Brooklyn, New York.
12. Plaintiff Kellin Rodriguez lives in the Bronx, New York.
13. Defendant Elisabeth DeVos is the Secretary of the United States Department of Education.

STATUTORY AND REGULATORY FRAMEWORK

14. The Higher Education Act of 1965 (“HEA”) and its amendments authorize the William D. Ford Federal Direct Loan (“Direct Loan”) Program, through which the Department lends money directly to eligible postsecondary students or their parents. 20 U.S.C. § 1087a *et seq.*

15. In her official capacity, the Secretary oversees all operations of the Department and the administration of federal student loan programs, including the Direct Loan program, and has the ultimate duty and power to collect, discharge, cancel, settle, or compromise federal student loans.

16. The HEA provides that if a Direct Loan borrower (or student on whose behalf a parent borrowed) “is unable to complete the program in which such student is enrolled due to the closure of the institution . . . then the Secretary shall discharge the borrower’s liability on the loan (including interest and collection fees).” 20 U.S.C. § 1087(c)(1); *see also* 20 U.S.C. § 1087a(b)(2); 34 C.F.R. §§ 685.212(d), 685.214.

17. The Department has promulgated regulations regarding closed school discharge

for Direct Loans, codified at 34 C.F.R. § 685.214.

18. A borrower is eligible for a closed school discharge if the borrower (or, in the case of a parent borrower, the student on whose behalf the loan was obtained) meets three requirements: the student (1) “[r]eceived the proceeds of a loan, in whole or in part, on or after January 1, 1986 to attend a school”; (2) “[d]id not complete the program of study at that school because the school closed while the student was enrolled, or the student withdrew from the school not more than 120 days before the school closed”; and (3) “[d]id not complete the program of study through a teach-out at another school or by transferring academic credits or hours earned at the closed school to another school.” 34 C.F.R. § 685.214(c)(1)(i) (the “Eligibility Regulation”).

19. A “teach-out” is a formal agreement between an operating school and the closing school that the operating school will provide to the closing school’s students an educational program of acceptable quality and reasonably similar structure. *See* 34 C.F.R. § 602.24(c)(5)(i)(A).

20. The closed school discharge regulation thus provides each borrower whose school closes two choices: “the option to complete their program through a teach-out [or credit transfer]” and “the option for a closed school discharge.” *See* 81 Fed. Reg. 39,330, 39,369 (June 16, 2016).

21. The Department has recognized that “[t]hough teach-outs can be beneficial to borrowers in a closed school situation, a closed school discharge may be a better option for some students.” *Id.*

22. Each borrower should “make an informed decision based on full knowledge of [their] options” about whether to transfer or obtain a discharge. *See* 81 Fed. Reg. 75,926, 76,034

(Nov. 1, 2016).

23. Discharge of a student loan entitles the borrower to: (1) relief from any existing or past obligation to repay the loan and associated costs or charges; (2) reimbursement of amounts paid voluntarily or through enforced collection; (3) the restoration of the borrower's eligibility to receive federal assistance under the HEA; and (4) correction of all adverse credit reports by reporting the discharge to all credit reporting agencies. 34 C.F.R. § 685.214(b) (the "Relief Regulation").

24. A borrower must apply for a closed school discharge by submitting a written request and sworn statement made under penalty of perjury. 34 C.F.R. § 685.214(c)(1). The Department has prepared an application form that a borrower may use to submit his or her request. *See* Loan Discharge Application: School Closure, OMB Control Number 1845-0058. This form is posted in the Department's online "Form Directory," <https://studentloans.gov/myDirectLoan/formLibrary.action>. Even though this form states that it expired on August 31, 2017, it remains the form currently in use.

25. When a school closes, the Department must notify all potentially eligible students of the availability of a closed school discharge and suspend collection on those borrowers' loans from the closed school.

26. Specifically, the Department must: (1) "identif[y] any Direct Loan borrower (or student on whose behalf a parent borrowed) who appears to have been enrolled at the school on the school closure date or to have withdrawn not more than 120 days prior to the closure date"; (2) "mail[] the borrower a discharge application and an explanation of the qualifications and procedures for obtaining a discharge"; and (3) "promptly suspend[] any efforts to collect from the borrower on any affected loan." 34 C.F.R. § 685.214(f)(1-3) (the "Notice and Suspend

Regulation”).

27. If the sixty-day period of suspension ends and the borrower has not submitted an application, the Department may resume collecting upon the borrower’s loan. 34 C.F.R. § 685.214(f)(4).

28. On November 1, 2016, the Department issued a Final Rule. *See* 81 Fed. Reg. 75,926 (Nov. 1, 2016) (“the 2016 Final Rule”).

29. The 2016 Final Rule did not amend or otherwise affect the Eligibility Regulation, the Relief Regulation, or the Notice and Suspend Regulation, which have been in effect for many years.

30. As part of the 2016 Final Rule, the Department promulgated a new regulation that states that “[u]pon resuming collection” at the end of the suspension period provided by the Notice and Suspend regulation, the Department must “provide[] the borrower another discharge application and an explanation of the requirements and procedures for obtaining a discharge.” 34 C.F.R. § 685.214(f)(5) (the “Second Notice Regulation”); *see also* 81 Fed. Reg. 75,926, 76,081-82 (Nov. 1, 2016).

31. The 2016 Final Rule was scheduled to become effective on July 1, 2017. 81 Fed. Reg. 75,926, 75,926 (Nov. 1, 2016). However, the Department stayed, and then delayed, the effectiveness of the majority of the 2016 Final Rule, including the Second Notice Regulation. *See* 82 Fed. Reg. 27,621 (June 16, 2017) (issuing stay); 82 Fed. Reg. 49,114 (Oct. 24, 2017) (interim delay); 83 Fed. Reg. 6,458 (Feb. 14, 2018) (final delay).

32. The Department’s stay and delay of the 2016 Final Rule, including the Second Notice Regulation, were recently held to be arbitrary and capricious, in violation of the Administrative Procedure Act. *Bauer v. DeVos*, No. CV 17-1330 (RDM), 2018 WL 4353656, at

*25 (D.D.C. Sept. 12, 2018).

33. The reviewing court determined that the appropriate remedy for the Department's arbitrary and capricious action was vacatur of the stay and delay. *Bauer v. DeVos*, No. CV 17-1330 (RDM), 2018 WL 4483783, at *3 (D.D.C. Sept. 17, 2018).

34. As of October 16, 2018 at 12:00p.m., the stay and delay of the 2016 Final Rule were vacated. *See* Minute Order (Oct. 12, 2018), *Bauer v. DeVos*, No. CV 17-1330 (RDM). As a result, the 2016 Final Rule, including the Second Notice Regulation, is currently in effect and, as a legal matter, is effective retroactive to July 1, 2017, the date it would have become final absent the unlawful stay and delay.

FACTUAL ALLEGATIONS COMMON TO THE CLASS

35. TCI was a for-profit college that offered Associate's Degrees in technology-related fields. Until it closed, TCI operated in Midtown Manhattan, at 320 West 31st Street, New York, NY 10001.

36. At the start of the 2016-2017 school year, TCI had an enrollment of 1,400 students. Three-quarters of these students obtained federal student loans to finance their attendance at TCI.

37. TCI's students were predominately low-income. Over 80% of TCI students received Federal Pell Grants, which are available only to low-income students.

38. TCI permanently closed on September 1, 2017.

39. TCI's closure came as a surprise to its students. On August 21, 2017 — less than two weeks earlier — the TCI Registrar had emailed the student body with the "Good News!" that registration had opened for the Fall 2017 Semester and that students should "[r]egister as soon as possible."

40. The Department was notified of TCI's closure within a week. On September 8, 2017, the Department transferred TCI to "Stop Payment" status due to the school's closure, meaning that no further student aid funds could be disbursed to the school. On October 2, 2017, the Department published information about TCI's closure in its publicly available monthly closed school report.

41. Despite learning of TCI's closure, the Department did not mail TCI borrowers a discharge application and an explanation of the qualifications and procedures for obtaining a discharge, as required by the Notice and Suspend Regulation.

42. Despite learning of TCI's closure, the Department did not suspend collection, as required by the Notice and Suspend Regulation.

43. The Department's failure to comply with the Notice and Suspend Regulation constitutes unlawfully withheld agency action in violation of the Administrative Procedure Act, 5 U.S.C. § 706(1), and is arbitrary, capricious, an abuse of discretion, and not in accordance with the HEA and its implementing regulations, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A).

44. On November 15, 2017, the New York Legal Assistance Group ("NYLAG"), counsel for Plaintiffs, sent a letter to the Department requesting that the Department "send[] information to all potentially eligible students about the availability of closed school discharge, as required by regulation." This letter is attached hereto as Exhibit 1.

45. On November 30, 2017, NYLAG received an informal response via email from a staff member at the Department who stated that the Department was "looking into this issue."

46. On June 26, 2018, NYLAG again wrote to the Department to "ask that [the Department] immediately identify all those TCI students potentially eligible for a closed school

discharge; mail closed school discharge applications to all such borrowers in order to make them aware of their right to seek a discharge of their federal student loans; and suspend collection efforts, as required by regulation.” This letter is attached hereto as Exhibit 2.

47. The letter further demanded that the Department respond within thirty days, and stated that if no such response was received, NYLAG would “consider [the Department] to have denied our request for administrative action, and . . . pursue all available remedies on behalf of our clients, including a possible legal action.”

48. The Department did not respond to, and thus denied, NYLAG’s requests that it notify all potentially eligible TCI borrowers and suspend collection.

49. The Department’s denial of these requests was arbitrary, capricious, an abuse of discretion, and not in accordance with the HEA and its implementing regulations, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A).

50. The Department did not send TCI borrowers a second application form, as required by the Second Notice Regulation that is now in effect retroactive to July 1, 2017.

51. The Department’s failure to comply with the Second Notice Regulation constitutes unlawfully withheld agency action in violation of the Administrative Procedure Act, 5 U.S.C. § 706(1), and is arbitrary, capricious, an abuse of discretion, and not in accordance with the HEA and its implementing regulations, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A).

52. On information and belief, up to a thousand TCI borrowers who are eligible for a closed school discharge are unaware of their ability to apply for this discharge because they have not been notified by the Department.

53. Absent notice from the Department, virtually no federal student loan borrowers

are aware of the availability of a closed school discharge unless and until they consult with a financial counselor, attorney, or other expert.

54. In 2014, an undersecretary at the Department stated that only six percent of eligible borrowers apply for a closed school discharge.

55. NYLAG and other legal services organizations routinely assist clients who borrowed federal loans to attend a school that closed and are unaware of the availability of a discharge until receiving legal advice. *See, e.g.*, Comments from the Legal Aid Community to the U.S. Dep't of Educ. at 53 (Aug. 1, 2016), *available at* <http://www.legalservicescenter.org/wp-content/uploads/2016/08/2016.08.01-Legal-Aid-Comments-on-BD-NPRM.pdf>.

56. NYLAG has spoken to over two dozen TCI students who borrowed federal student loans and were attending TCI at the time it closed or within 120 days of closure. None have received a notice of closed school discharge eligibility from the Department.

57. All but one of these students was unaware of the availability of closed school discharge before speaking with counsel. The one student who was aware of the availability of the discharge never received a notice from the Department but learned about the discharge when speaking on the phone with her loan servicer.

58. The Department has itself acknowledged that most borrowers do not know of the availability of a closed school discharge. *See* 81 Fed. Reg. 39,330, 39,369 (June 16, 2016) (“The Department is concerned that borrowers are unaware of their possible eligibility for a closed school discharge because of insufficient outreach and information about available relief.”).

59. Indeed, borrowers’ widespread lack of awareness about closed school discharge was the impetus for the Department’s promulgation of the Second Notice Regulation as part of the 2016 Final Rule. *See id.*

60. After TCI closed, it filed for Chapter 7 bankruptcy, and the Bankruptcy Court subsequently sent a Notice of Possible Dividends to thousands of individuals, including many students who were enrolled in the school when it closed. *See* Not. of Possible Payment of Dividends, *In re Technical Career Institutes, Inc.*, No. 17-13232 (Bankr. S.D.N.Y.), ECF No. 25 (March 2, 2018). The Notice of Possible Dividends provided instructions for filing *pro se* proofs of claim in TCI's bankruptcy.

61. Upon receiving the Notice of Possible Dividends, many TCI students (including Mr. Quero, Mr. Francis, and Mr. Rodriguez) followed the instructions and submitted *pro se* proofs of claim. Many of these students' proofs of claim sought assistance with their federal student loan debt from TCI. These requests for relief from federal student loans are not valid bases for proofs of claim and are not cognizable in the bankruptcy proceedings.

62. Had these diligent students been provided with the notice and closed school discharge application required by federal regulation, however, they would have known that the appropriate avenue to seek relief from their federal loans would have been to apply for a closed school discharge.

63. On information and belief, had these students applied for a closed school discharge at the time they submitted their *pro se* proofs of claim, many would already have received a discharge of their loans.

64. Plaintiffs' counsel has spoken to many of the students who submitted *pro se* proofs of claim, including Mr. Quero, Mr. Francis, and Mr. Rodriguez, who were unaware of the availability of closed school discharge.

65. As a result of Defendant's failure to send notice of the availability of closed school discharge and suspend collection, Plaintiffs have experienced and continue to experience

financial and other harm.

66. Plaintiffs face ongoing collection on their TCI loans and are obligated to make monthly payments on those loans.

67. When Plaintiffs are unable to make monthly payments, their loans will become delinquent and, eventually, will default. Plaintiffs who default face the Department's extraordinary collection powers, including tax offset and wage garnishment, or litigation.

68. Plaintiffs' credit is doubly damaged: all Plaintiffs' federal student loans borrowed to attend TCI are reported as outstanding debt, increasing Plaintiffs' reported total debt balance, and Plaintiffs who miss or fall behind on payments have further negative reporting associated with missed payments or delinquent accounts.

69. After TCI's closure, other for-profit schools in the New York City area aggressively recruited former TCI students.

70. For example, recruiters from ASA College, a for-profit two-year college in Brooklyn, began to call TCI students' cell phones. ASA College put up a special page on its website offering "TCI STUDENTS EASY TRANSFER TO ASA COLLEGE" with a "SPECIAL SCHOLARSHIP FOR TCI STUDENTS." Lured by this type of aggressive marketing techniques, many TCI students enrolled in programs of study at other for-profit schools.

71. Many of the TCI students who enroll in other for-profit schools will not complete their programs of study, however, because these schools have very low completion rates. For example, the graduation rate at ASA College is twenty-six percent.

72. Because the Department did not notify these students about the availability of closed school discharge, they could not "make an informed decision based on full knowledge of [their] options" about whether to transfer or apply for the discharge. *See* 81 Fed. Reg. 75,926,

76,034 (Nov. 1, 2016).

73. On information and belief, many TCI students would not have transferred their credits to other for-profit schools had they known that they could obtain a discharge of their TCI loans instead of going into further debt to continue their programs of study.

74. Unless and until they complete their program of study, these students remain eligible to discharge their TCI loans.

FACTUAL ALLEGATIONS REGARDING NAMED PLAINTIFFS

Christopher Quero

75. Plaintiff Christopher Quero is a thirty year old resident of the Bronx, New York.

76. Mr. Quero enrolled in TCI's Facilities Management Technology Associate's Degree program in the Spring of 2016 and obtained \$20,000 in federal Direct Loans to finance his TCI tuition and fees.

77. Mr. Quero meets the requirements for closed school discharge in the Eligibility Regulation.

78. Mr. Quero was enrolled at TCI when it closed on September 1, 2017.

79. Mr. Quero was unable to complete his program of study due to TCI's closure.

80. Mr. Quero has not completed his program of study through a teach-out or by transferring credits to another institution.

81. Mr. Quero was never mailed notice of the availability of a closed school discharge or the closed school discharge application.

82. On information and belief, collection has never been suspended on the federal student loans Mr. Quero borrowed to attend TCI.

83. When Mr. Quero received the Notice of Possible Dividends, he filed a *pro se*

proof of claim in TCI's bankruptcy.

84. Mr. Quero was unaware of the availability of closed school discharge before speaking to counsel within the past month.

85. Mr. Quero has not yet applied for a closed school discharge.

86. Had Mr. Quero known about the availability of a closed school discharge earlier, he would have applied.

87. Mr. Quero's loans from TCI have a current outstanding balance of approximately \$21,300, which includes \$1,300 of accrued interest.

88. Mr. Quero's loans are currently in a temporary "forbearance" period during which Mr. Quero is not obligated to make any payments, but interest continues to accrue and his overall loan balance thus continues to increase. Mr. Quero placed his loans into forbearance due to his inability to make his monthly payments.

89. Mr. Quero's loans from TCI appear on his credit report.

Courtney Francis

90. Plaintiff Courtney Francis is a twenty-one year old resident of Brooklyn, New York.

91. Mr. Francis enrolled in TCI's Automotive Technology Associate's Degree program in the Fall of 2016 and obtained \$5,500 in federal Direct Loans to finance his TCI tuition and fees.

92. Mr. Francis meets the requirements for closed school discharge in the Eligibility Regulation.

93. Mr. Francis was enrolled at TCI when it closed on September 1, 2017.

94. Mr. Francis was unable to complete his program of study due to TCI's closure.

95. Mr. Francis has not completed his TCI program of study through a teach-out or by transferring credits to another institution.

96. Mr. Francis is currently enrolled in an Associate's Degree program at the Borough of Manhattan Community College. Mr. Francis is not participating in a teach-out, and did not transfer any credits from TCI to his current school. Moreover, Mr. Francis's current program of study, Studio Art, is not the same as or comparable to his prior program of study, Automotive Technology.

97. Mr. Francis was never mailed notice of the availability of closed school discharge or the closed school discharge application.

98. On information and belief, collection has never been suspended on the federal student loans Mr. Francis borrowed to attend TCI.

99. After TCI closed, Mr. Francis sought legal assistance in connection with his student loans, but he was unable to find an attorney that would help him.

100. When Mr. Francis received the Notice of Possible Dividends, he filed a *pro se* proof of claim in TCI's bankruptcy, seeking a refund of money paid for "tuition for unfinished school year," i.e., his federal student loans.

101. Mr. Francis was unaware of the availability of closed school discharge before speaking to counsel within the past month.

102. Mr. Francis has not yet applied for a closed school discharge.

103. Had Mr. Francis known about the availability of a closed school discharge earlier, he would have applied.

104. Mr. Francis's loans from TCI have a current outstanding balance of approximately \$5,630, which includes \$130 of accrued interest.

105. Because Mr. Francis is currently in school, his TCI loans are in “in-school deferment,” meaning that he is not required to make monthly payments but interest continues to accrue on some loans, and his overall loan balance thus continues to increase.

106. Mr. Francis’s loans from TCI appear on his credit report.

Kellin Rodriguez

107. Plaintiff Kellin Rodriguez is a twenty-two year old resident of the Bronx, New York.

108. Mr. Rodriguez enrolled in TCI’s Heating Ventilation and Air Conditioning Associate’s Degree program in the Fall of 2015 and obtained \$11,000 in federal Direct Loans to finance his TCI tuition and fees.

109. Mr. Rodriguez meets the requirements for closed school discharge in the Eligibility Regulation.

110. Mr. Rodriguez was enrolled at TCI when it closed on September 1, 2017.

111. Mr. Rodriguez was unable to complete his program of study due to TCI’s closure.

112. Mr. Rodriguez has not completed his program of study through a teach-out or by transferring credits to another institution.

113. Mr. Rodriguez was never mailed notice of the availability of a closed school discharge or the closed school discharge application.

114. On information and belief, collection has never been suspended on the federal student loans Mr. Rodriguez borrowed to attend TCI.

115. When Mr. Rodriguez received the Notice of Possible Dividends, he filed a *pro se* proof of claim in TCI’s bankruptcy, seeking a refund of \$11,000 (the same amount of his federal student loans) for “money loaned.”

116. Mr. Rodriguez was unaware of the availability of closed school discharge before speaking to counsel within the past month.

117. Mr. Rodriguez has not yet applied for a closed school discharge.

118. Had Mr. Rodriguez known about the availability of a closed school discharge earlier, he would have applied.

119. Mr. Rodriguez's loans from TCI have a current outstanding balance of approximately \$11,280, which includes \$280 of accrued interest.

120. Mr. Rodriguez's loans are six months past due and are in "delinquent" status. Mr. Rodriguez owes a past-due balance of approximately \$700 on his TCI loans.

121. On information and belief, the delinquency on Mr. Rodriguez's TCI federal student loans appears on his credit report and has negatively impacted his credit score.

CLASS ACTION ALLEGATIONS

122. Plaintiffs bring this action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, on behalf of themselves and a proposed class of:

All Direct Loan borrowers who (and all parents who borrowed Direct Loans on behalf of students who) were enrolled at TCI when the school closed or withdrew from TCI not more than 120 days prior to the school's closure.

123. The proposed class is so numerous that joinder of all members is impracticable. Upon information and belief, there approximately one thousand members of the proposed class.

124. There are questions of fact common to members of the class including whether Defendant notified all eligible borrowers of the availability of closed school discharge and suspended collection.

125. There are questions of law common to members of the class including whether Defendant unlawfully withheld agency action by failing to send notice to TCI borrowers of their

potential eligibility for closed school discharges and suspend collection of TCI borrowers' loans; whether Defendant acted and continues to act arbitrarily and capriciously, and in violation of the HEA and its implementing regulations, by failing to send notice to TCI borrowers of their potential eligibility for closed school discharges and suspend collection of TCI borrowers' loans; and whether Defendant acted and continues to act arbitrarily and capriciously, and in violation of the HEA and its implementing regulations, by refusing to do the same upon request.

126. The claims of the Named Plaintiffs are typical of the claims of all members of the proposed class. The Named Plaintiffs, like all members of the class, obtained federal Direct Loans in connection with attendance at TCI and were enrolled at TCI when it closed or within 120 days prior. The Named Plaintiffs, like the proposed class members, did not receive notice of their ability to apply for a closed school discharge and suspension of collection. Because of Defendant's failure to notify TCI borrowers of their potential eligibility for discharge and failure to suspend collection of TCI loans, the Named Plaintiffs have been subject to collection activity.

127. The Named Plaintiffs will adequately and fairly protect the interests of all members of the proposed class because they have the requisite personal interest in the outcome of this litigation and have no interest antagonistic to any members of the class.

128. Plaintiffs are represented by NYLAG, whose attorneys are experienced in class action litigation, including litigation to enforce the rights of consumers and, particularly, the rights of individuals with federal student loan debt.

129. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to the practices at issue in this action. Separate actions would be, as a practical matter, dispositive of the interests of other individual members of the class and would substantially impair their abilities to protect their

interests. Defendant has also acted on grounds generally applicable to the class, thereby making a class action superior to other available methods for the fair and efficient adjudication of this controversy.

130. Moreover, it would be impracticable for potential plaintiffs, who are primarily low-income individuals with limited access to counsel, to obtain legal services on an individual basis for their claims. Hence their rights under the law may well be meaningless without certification of a class action seeking common redress.

FIRST CAUSE OF ACTION

Violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(1), 706(2)(A)

131. Defendant unlawfully withheld agency action, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(1), by failing to send notice to TCI borrowers of their potential eligibility for closed school discharges and by refusing to suspend collection of TCI borrowers' loans, as required by the Higher Education Act, 20 U.S.C. § 1071, *et seq.* and its implementing regulations, including 34 C.F.R. § 685.214(f)(1-3).

132. Defendant abused her discretion, and acted and continues to act arbitrarily, capriciously and otherwise not in accordance with the Higher Education Act, 20 U.S.C. § 1071, *et seq.* and its implementing regulations, including 34 C.F.R. § 685.214(f)(1-3), in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), by failing to send notice to TCI borrowers of their potential eligibility for closed school discharges and by refusing to suspend collection of TCI borrowers' loans.

SECOND CAUSE OF ACTION

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(1)

133. Defendant abused her discretion, and acted and continues to act arbitrarily, capriciously and otherwise not in accordance with the Higher Education Act, 20 U.S.C. § 1071,

et seq. and its implementing regulations, including 34 C.F.R. § 685.214(f)(1-3), in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), by denying Plaintiffs' request to send notice to TCI borrowers of their potential eligibility for closed school discharges and suspend collection of TCI borrowers' loans.

THIRD CAUSE OF ACTION

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(1), 706(2)(A)

134. Defendant unlawfully withheld agency action, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(1), by failing to send the second notice to TCI borrowers of their potential eligibility for closed school discharges, as required by the Higher Education Act, 20 U.S.C. § 1071, *et seq.* and its implementing regulations, including 34 C.F.R. § 685.214(f)(5).

135. Defendant abused her discretion, and acted and continues to act arbitrarily, capriciously and otherwise not in accordance with the Higher Education Act, 20 U.S.C. § 1071, *et seq.* and its implementing regulations, including 34 C.F.R. § 685.214(f)(5), in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), by failing to send the second notice to TCI borrowers of their potential eligibility for closed school discharges.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter an order:

a. Certifying this action as a class action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, with the class consisting of:

All Direct Loan borrowers who (and all parents who borrowed Direct Loans on behalf of students who) were enrolled at TCI when the school closed or withdrew from TCI not more than 120 days prior to the school's closure.

b. Declaring that:

i. Defendant's failure to send notice to TCI borrowers of their potential eligibility for closed school discharges, and failure to suspend collection on their loans, was and continues to be unlawfully withheld agency action, and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the Higher

Education Act, 20 U.S.C. § 1071, *et seq.* and its implementing regulations, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(1), 706(A)(2);

- ii. Defendant's denial of Plaintiffs' request to send notice to TCI borrowers of their potential eligibility for closed school discharges, and to suspend collection on their loans was and continues to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the Higher Education Act, 20 U.S.C. § 1071, *et seq.* and its implementing regulations, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A); and
 - iii. Defendant's failure to send a second notice to TCI borrowers of their potential eligibility for closed school discharges was and continues to be unlawfully withheld agency action, and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the Higher Education Act, 20 U.S.C. § 1071, *et seq.* and its implementing regulations, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(1), 706(A)(2).
- c. Enjoining Defendant to:
- i. Immediately suspend collection on all Direct Loans disbursed to class members in connection with their attendance at TCI, consistent with the HEA and 34 C.F.R. § 685.214(f)(1-3);
 - ii. Immediately send to all class members notice of their potential eligibility to apply for a closed school discharge of their TCI loans and the discharge application form, consistent with the HEA and 34 C.F.R. § 685.214(f)(1-3); and
 - iii. Subsequently send a second notice to all class members of their potential eligibility to apply for a closed school discharge of their TCI loans, consistent with the HEA and 34 C.F.R. § 685.214(f)(5).
- d. Ordering Defendant to pay the cost of this action, together with reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A), as determined by the Court; and
- e. Granting such other and further relief as the Court may deem just and proper.

Dated: October 17, 2018
New York, New York

Respectfully submitted,

BETH E. GOLDMAN, ESQ .
New York Legal Assistance Group
7 Hanover Square, 18th Floor
New York, NY 10004
Phone: 212-613-5000

By: /s/ Danielle F. Tarantolo
Danielle Tarantolo, of counsel
Jane Greengold Stevens, of counsel
Jessica Ranucci, of counsel
Attorneys for Plaintiffs

Exhibit 1



November 15, 2017

Ron Bennett
Director, School Eligibility Service Group
U.S. Department of Education
830 First Street NE
Washington D.C. 20002

Dear Mr. Bennett:

We write regarding the recent closure of the Technical Career Institute (TCI), a for-profit college in Manhattan. As you are aware, on September 1, 2017, TCI ceased all operations and permanently closed.¹ This closure came as a shock to many TCI students, who had received an email just ten days earlier inviting them to register for the Fall 2017 semester.² Our office, which provides free legal services to low-income New Yorkers, has been contacted by former TCI students seeking legal assistance in connection with the closure.

As you know, students who were enrolled at TCI when it closed on September 1, 2017, or who left TCI without completing a degree within the preceding 120 days, are eligible for a closed school discharge of their federal student loans.³ A closed school discharge relieves the student of *all* obligations to repay *all* federal student loans borrowed to attend TCI, and entitles the student to a refund of any amount already paid on the loans.⁴

Federal regulations require that once the U.S. Department of Education (USED) has confirmed the date of a school's closure, it must "identif[y] any Direct Loan borrower (or student on whose behalf a parent borrowed) who appears to have been enrolled at the school on the school closure date or to have withdrawn not more than 120 days prior to the closure date"; "mail[] the borrower a [closed school] discharge application and an explanation of the qualifications and procedures for obtaining a discharge"; and "promptly suspend[] any efforts to collect from the borrower on any affected loan."⁵ However, no student who has contacted our office has received a notice from USED regarding the availability of a closed school discharge. We request that USED immediately identify and contact all potentially eligible students to make former TCI students aware of their right to seek a discharge of their federal student loans.

¹ U.S. Dep't of Educ., Closed School Monthly Report – Section I Sept. 2017 (Oct. 2, 2017) at 4–5, <https://www2.ed.gov/offices/OSFAP/PEPS/docs/sep17sec1.pdf> (listing September 1, 2017 as TCI's closure date); *see also* TCI College Latest Updates, <http://www.tccollege.edu/> ("On September 1, 2017, TCI College closed its doors.").

² Email from Registrar to TCI Students (Aug. 21, 2017, 5:36 PM), attached as Exhibit A. ("Good News! Registration for the 2017 Fall semester is now open to all students starting this Wednesday, August 23rd, 2017. Classes begin Wednesday, September 26th, 2017 and the semester ends on January 13th, 2018. Register as soon as possible. . . .").

³ 34 C.F.R. § 685.214(c)(1)(i); 34 C.F.R. § 682.402(d)(3)(ii).

⁴ 34 C.F.R. § 685.214(b)(1–2); 34 C.F.R. § 682.402(d)(2).

⁵ 34 C.F.R. § 685.214(f)(1–2).

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Because TCI's sudden closure left its students without the chance to finish their degrees, federal regulations require TCI to have a teach-out plan: "a written plan developed by an institution that provides for the equitable treatment of students" upon the school's closure.⁶ Although TCI has claimed that its students "will be part of what is called a 'teach-out' process" and "will be transitioned to other local colleges/universities who offer similar academic programs," our research indicates that there is no teach-out plan in place for former TCI students.⁷

Instead of providing a teach-out, TCI has given its students misleading and inaccurate information about supposed teach-out agreements.⁸ When it closed, TCI provided its students with a list of over twenty schools that "a) offer comparable programs; b) have an articulation agreement with TCI; or c) have a signed teach-out agreement with TCI" — without noting which schools, if any, had signed teach-out agreements.⁹ At the same time, TCI told its students that eight schools "have signed or will sign teach-out agreement[s]": Monroe College, Metropolitan College, Plaza College, Long Island Business Institute, College of Westchester, Touro College, New York Automotive and Diesel Institute and Mildred Elley.¹⁰ Our office has contacted these schools and spoken with representatives in each of their admissions departments. Out of the eight schools listed, five have stated that there is no teach-out agreement between their school and TCI, and the three remaining schools refused to either confirm or deny the existence of a teach-out. In addition, former senior TCI faculty told us that TCI did not enter into any teach-out agreements with other schools. The responses of these schools to our inquiries are consistent with the experiences reported to us by former TCI students. These students have been confounded by the confusing maze of alleged teach out agreements, and report that they have been unable to obtain any clear information from the schools on TCI's list about the availability of transfer credits or a "teach-out" option.

Moreover, USED's Closed School Report, published last month, contains similar information, which we believe is erroneous or misleading. Specifically, USED's report states that seven of these schools — Monroe College, Metropolitan College, Plaza College, Long Island Business Institute, College of Westchester, Touro College, and Mildred Elley — have

⁶ 34 C.F.R. § 602.3; *see also* 34 C.F.R. 602.24(c).

⁷ TCI College of Technology Teachout Frequently Asked Questions (Sept. 5, 2017), attached as Exhibit D, *also available at* <http://www.tccollege.edu/frequently-asked-questions.html>. This list of FAQs was attached to the September 5, 2017 email from TCI's registrar to TCI students (Exhibit B).

⁸ A teach-out agreement is defined by regulation as a "written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study." 34 C.F.R. § 602.3.

⁹ Email from Registrar to TCI Students (Sept. 5, 2017, 9:26 PM), attached as Exhibit B; TCI College of Technology Partner Schools By Program Student List (Sept. 1, 2017), attached as Exhibit C, *also available at*, <http://www.tccollege.edu/partner-schools.html>. This list of Partner Schools was attached to the September 5, 2017 email from TCI's registrar to TCI students (Exhibit B).

¹⁰ TCI College of Technology Teachout Frequently Asked Questions (Sept. 5, 2017), attached as Exhibit D, *also available at* <http://www.tccollege.edu/frequently-asked-questions.html>.

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signed teach out agreements with TCI.¹¹ As explained above, we believe that these teach-out agreements do not exist.

Our concerns are exacerbated by TCI's apparent efforts to funnel its students to other for-profit institutions. Almost all of the purported "teach out" partners with TCI are for-profit schools. TCI students have been subjected to repeated phone calls from recruiters at other proprietary schools, such as ASA College, which has a special page on its website offering "TCI STUDENTS EASY TRANSFER TO ASA COLLEGE" with a "SPECIAL SCHOLARSHIP FOR TCI STUDENTS."¹² TCI students have reported that callers from other proprietary schools have had access to their personal data, such as their addresses, which suggests that TCI provided or sold its students' data to other for-profit schools. The aggressive marketing tactics used by proprietary schools have further confused former TCI students as to what transfer options are available to them and which schools have entered into teach out agreements.

Even students who have been able to navigate these schools' aggressive marketing tactics and TCI's misrepresentations and have located appropriate programs of study at other schools have faced obstacles transferring their credits. When TCI shut down, it removed the vast majority of content from its website, including prior years' course catalogs. As an administrator from a SUNY branch told us, it is incredibly difficult to process transfer credits from TCI students without being able to verify the students' prior coursework from TCI's course catalog. Without a course catalog available, TCI students have faced and will face difficulty in transferring their credits.

TCI's closure was devastating for many of its students. Since the school closed, many of these students have become even more frustrated and confused because of TCI's (and USED's) failure to provide accurate and specific information regarding purported teach-out programs, other proprietary schools' aggressive and misleading marketing tactics, and their inability to access TCI's course catalog. They are being further harmed by USED's failure to provide information about the availability of closed school discharge. TCI students have the right to choose between two options: obtaining a closed school discharge of their federal loans, or transferring their credits to a comparable program of study through a teach-out agreement. However, most TCI students are not aware of the option of closed school discharge, and TCI's misleading information has left them unable to access any comparable program of study.

Accordingly, we request that USED intervene to help former TCI students by immediately doing the following: (1) sending information to all potentially eligible students about the availability of closed school discharge, as required by regulation; (2) reviewing USED's own published information regarding available teach-out programs, including in the Closed School Report, and eliminating from its materials any programs for which USED cannot verify that a written agreement exists; (3) working with TCI's accreditor, the Middle States Commission on Higher Education, to make public a list of schools with whom TCI has signed

¹¹ See U.S. Dep't of Educ., Closed School Monthly Report – Section I Sept. 2017 (Oct. 2, 2017) at 4–5, <https://www2.ed.gov/offices/OSFAP/PEPS/docs/sep17sec1.pdf>.

¹² ASA College: TCI STUDENTS EASY TRANSFER TO ASA COLLEGE, attached as Exhibit E, also available at <http://info.asa.edu/tci/>.

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legally compliant, written teach out agreements, if any;¹³ (4) investigating marketing efforts made by proprietary schools to determine if they mislead or otherwise prey on former TCI students; and (5) making TCI's prior course catalogs publicly accessible so that TCI students and administrators at other institutions can assess the availability of transfer credits.

We further request that you advise us within three weeks of USED's position with respect to the issues raised in this letter. If you have any questions, please contact me at (212) 613-5031.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jane Greengold Stevens', is centered below the word 'Sincerely,'.

Jane Greengold Stevens

cc:

Betty Coughlin
Christopher Curry
Teresa Martinez
School Participation Division – New York/Boston
U.S. Department of Education
Federal Student Aid
32 Old Slip, 25th Floor
New York, NY 10005

Tamara Chrisman
Federal Student Aid
U.S. Department of Education
50 United Nations Plaza
San Francisco, CA 94102

¹³ Our office has made many attempts to contact the Middle States Commission on Higher Education (MSCHE) regarding TCI teach out plans. We recently received a response from MSCHE's Vice President for Legal Affairs stating that public information about TCI's teach out agreements is not available at this time.

Exhibit A

From: Registrar@tcicollege.edu on behalf of Rafael Baez

Sent: Monday, August 21, 2017 5:36 PM

To: [REDACTED]

Subject: Registration Invitation for Fall 2017

Good News! Registration for the 2017 Fall semester is now open to all students starting this Wednesday, August 23rd, 2017. Classes begin Wednesday, September 26th, 2017 and the semester ends on January 13th, 2018.

Register as soon as possible so that you can enjoy your semester break and have the classes that you want.

We at TCI recognize how important a college education is to succeed and you are already on your way towards becoming a future graduate!

We are here to assist you through the registration process. Please make sure you visit the Financial Aid Office for clearance in room 139 and visit us in room 145 for any questions regarding registration.

Please note that registration for classes starts this Wednesday, August 23rd, 2017. Registration times are from 10:30 am to 7:00 pm Monday thru Thursday and 9:00 am to 6:00 pm on Fridays.

Classes can fill up quickly. Don't put off to tomorrow, what you can accomplish today.

If you are currently in your last semester, please pass by the Registrar's Office in room 145 and fill out a Prospective Graduate Form.

Thank you.

Registrar's Office

Exhibit B

From: Registrar@tcicollege.edu on behalf of Rafael Baez

Sent: Tuesday, September 5, 2017 9:26 PM

To: [REDACTED]

Subject: TCI Teach out Information

September 1, 2017

Dear Student:

We greatly value your commitment to your education and TCI College of Technology. I want to share an important development about our institution with you.

TCI College of Technology stopped enrolling students for the Fall 2017 semester to prepare for the possible closing of the school. We then entered into around the clock negotiations with another institution in order to keep TCI open, and started to enroll current students, having every intention and expectation of starting a Fall 2017 semester that we expected to begin on September 26, 2017.

Unfortunately, we were not successful in obtaining the funds necessary to begin a Fall 2017 semester. As such, TCI is discontinuing operations as of September 1. This decision was made after evaluating a number of factors, including enrollment levels, current financial stability and long-term viability

In order to help you, please note the following:

- * We are attaching a list of the schools that either: a) offer comparable programs; b) have an articulation agreement with TCI; or c) have a signed teach-out agreement with TCI.
- * We are attaching a list of frequently asked questions
- * We will mail diplomas for students who completed all requirements in the summer 2017 semester and any diplomas that have not been picked up in the past.
- * We have made arrangements for you to pick up official transcripts (for students enrolled since 2008) at: Metropolitan College. More information about this is attached in the Question and Answer Document.

While we know this is difficult news for you to receive, our commitment to our students is paramount, and we will do all we can to transition you to another institution, for continued enrollment in your respective programs of study.

The building will be closed the Labor Day week. For questions, please feel free to send an email to: TCITeachOut@tcicollege.edu and a member of the TCI team will respond as soon as possible.

Thank you for your understanding and cooperation.
Philip Getter, Chairman, TCI Board of Directors

Attachments:

Teach Out FAQs September 5 2017.docx

TCI-teach out partners by program student list_9_5_17.docx

Exhibit C

TCI COLLEGE OF TECHNOLOGY PARTNER SCHOOLS BY PROGRAM

STUDENT LIST

AS OF 9/1/2017

1. ACCOUNTING

- Monroe College, AAS; BBA; ACBSP accredited*
- Berkeley College, AAS, BBA*
- College of Westchester, AAS, BBA
- DeVry College, BPS
- Touro College, AAS
- Plaza College, AOS

2. AUTOMOTIVE

- Lincoln Technical Institute (non-degree school), Certificate
- Bronx Community College, AAS
- New York Automotive and Diesel Institute, AOS
- Rockland Community College, AAS

3. BUSINESS

- Berkeley College, BBA*
- College of Westchester, AAS, BBA
- Monroe College, AAS, BBA*
- SUNY Empire State College, AA, AS, BA, BS*
- Touro College, AS, BS
- Plaza College, AAS
- Metropolitan College, AS, BBA*

4. DIGITAL MEDIA ARTS

- College of Westchester, AAS,
- Touro College, AOS, AS, BS, Certificates*
- Fashion Institute of Technology, Film and Media, AAS; Graphic Design, BFA
- School of Visual Arts, BFA

5. ELECTRONICS ENGINEERING TECHNOLOGY

- DeVry College, AAS*
- New York City College of Technology – CITYTECH, AAS**
- New York Institute of Technology (NYIT), BS

6. FACILITIES MANAGEMENT TECHNOLOGY

- New York City College of Technology (CITYTECH), B Tech
- Baruch College, Certificate Non-Credit Bearing Program
- NYIT, Advanced Certificate in Facilities Management

7. HEALTH INFORMATION TECHNOLOGY

- Berkeley College, AAS Health Services Administration*
- College of Westchester, AOS, BBA
- Metropolitan College, BBA, Healthcare Systems Management*
- Monroe College, AAS Medical Administration

8. HEATING VENTILATION AIR CONDITIONING REFRIGERATION

- Pratt Institute (accepts 42 TCI credits towards Bachelors degree in Construction Management)
- Borough of Manhattan Community College, Certificate Non-Credit Bearing Program
- Lincoln Technical Institute, (non-degree school), Certificate
- New York City College of Technology CITYTECH, AAS Environmental Control **

9. HUMAN SERVICES

- SUNY Empire State College, AA, AS
- Metropolitan College, AA; Bachelor of Professional Studies
- Monroe College, AS
- New York City College of Technology CITYTECH, AAS

10. INDUSTRIAL ELECTRONICS TECHNOLOGY/COMPUTER TRACK (IETC)

- SUNY Empire State College, BS, Interdisciplinary Studies*
- New York city College of Technology (CITYTECH), *comparable programs at AAS level*

11. NETWORKING

- Berkeley College, AAS, IT; BS, IT*
- Metropolitan College, AAS, IT; BBA, IT*
- Touro College, BS, Computer Science*

12. OPHTHALMIC DISPENSING

- New York City College of Technology (CITYTECH), AAS, Ophthalmic Dispensing

13. PARALEGAL STUDIES

- Berkeley College, AAS, BS*
- New York City College of Technology CITYTECH
- Plaza College, AAS

14. SECURITY SERVICES and MANAGEMENT

- Monroe College AS, *Criminal Justice*
- Long Island Business Institute, AOS, Security Services

Monroe College accepts Career Pathways students

Plaza College accepts Career Pathways students

New York Automotive and Diesel Institute accepts Career Pathways students

*Articulation agreements exist

** Comparable programs

DeVry accepts limited transfer credits

Pratt accepts limited transfer credits

This document is for informational purposes only. You should contact the colleges directly for specific information about program titles and requirements. All registered programs in NYS are listed on the New York State Education Department's Inventory of Registered Programs (IRP) - <http://www.nysed.gov/heds/IRPSL1.html>)

Exhibit D

TCI College of Technology Teachout Frequently Asked Questions (FAQs)

As of September 5, 2017

Why is the school closing?

Declining enrollments have negatively impacted finances, and the institution's ability to operate. TCI College of Technology no longer has the financial resources to sustain the college beyond the end of the summer term.

What is the school's last day?

The last day of classes was August 18, 2017.

What happens to me?

You will be part of what is called a "teach-out" process. A teach-out is the gradual discontinuation of operations that leads to the closure of an institution. Students who have not graduated from TCI at the end of the summer 2017 term, will be transitioned to other local colleges/universities who offer similar academic programs.

What schools can I go to and how can I contact them?

The TCI administration has contacted local colleges and universities that have similar programs. Attached is a list of local colleges and universities and the academic programs they offer. The FAQs and the list will also be available on the TCI website.

Some of the Institutions have signed teach-out agreements.

What is a teach-out agreement?

A teach-out agreement is specifically written only in those cases where a school is closing and the partner institution wants to assist by accepting the students from the school that is closing. In these agreements, the partners agree to a number of things, including, but not limited to, keeping the tuition the same and accepting as many credits as possible (**based on the degree to which the TCI courses match their program courses**). At this time, the schools that have signed or will sign a teach-out agreement are: Monroe College, Metropolitan College, Plaza College, Long Island Business Institute, College of Westchester, Touro College, New York Automotive and Diesel Institute and Mildred Elley.

There may be other schools signing agreements in the near future. Please ask the school if they have a teach-out agreement with TCI when you go to register.

Will my credits transfer?

TCI has articulation agreements with several of the local colleges and universities on the list (designated with an asterisk). This designation means that those colleges and universities have evaluated TCI's program against their institution's program requirements. In most cases, they accept all of your credits based on the match in program requirements. You can also enroll in their baccalaureate program and work toward that degree.

For those institutions where TCI has no articulation, the number of credits accepted are dependent on the receiving institution.

If a school has both an articulation and a teach-out agreement they are in the best position to accept TCI transfer students.

Who do I contact at the schools?

Attached is a list of schools that have comparable programs. We have provided contact information, where available. In addition, Monroe College, Metropolitan College and PLAZA College have provided the following:

Metropolitan College

Manhattan: 60 West Street, NY, NY 10006
Bronx: 463 East 149th Street, Bronx, NY 10455
Phone: 646-237-8629 (direct line for TCI students)
Email: tcitransfer@mcny.edu (direct for TCI students)

Monroe College

Contact: Emerson Phillips, Director of Admissions (646) 393-8464
Monroe College will host special information sessions for TCI students on Wednesday and Thursday (September 6th and 7th) at 10:00 am and 5:30 pm.
King Hall, 2501 Jerome Avenue, Bronx, New York 10468

Plaza College

Plaza College will be providing transfer counseling to students that are enrolled in one of the following programs: Accounting Systems Technology, Business Administration, Health Information Technology, and Paralegal Studies. To begin the enrollment process, students should visit www.plazacollege.edu/tcistudents to download the TCI Transfer Application. Once you have completed your application, please call the Admissions Department at [718-505-4188](tel:718-505-4188) to schedule an appointment to tour the campus, submit your application, and meet with the Transfer Teach-Out team. When contacting Admissions, please clearly identify yourself as a TCI Transfer Student. Appointments will begin on September 5th at 11:00 a.m. Please contact Charles Callahan IV, COO at info@plazacollege.edu or [718-505-4188](tel:718-505-4188) with any questions.

The summer semester was my last semester, after which I was supposed to graduate. Will I still graduate?

As long as you pass all of your courses you will be coded as a graduate from TCI College. The College will mail your diploma to the address on file, so please be sure that we have the correct contact information for you.

Where do I get my official transcript?

Metropolitan College will be providing TCI College official transcripts, upon request. Beginning Thursday, September 7th you may contact:

Metropolitan College: Ms. Noreen Smith, Registrar; nsmith@mcny.edu.

We also plan to move electronic and physical student records to one central location. Students will be notified of those arrangement when it becomes available.

Who will assist TCI's veteran students?

We will support the student veterans in their transition to other institutions, especially as it relates to financial aid issues, the NY State Office of Veteran's Affairs, etc. Please contact Christine Chen; cchen@tcicollege.edu if you need assistance.

How will this teach-out affect my ability to get a job upon graduation?

This teach-out will not affect your ability to get a job. Employers that work with TCI have been notified about the closure. When you enroll at a new institution, you will receive job search assistance at the new college/university.

Will TCI forgive students with balances?

Students who have balances will be responsible to pay them to a third party, working on behalf of TCI. However, students with debt will still receive a TCI transcript. These transcripts will be available at Metropolitan College (Ms. Noreen Smith; nsmith@mcny.edu).

If I am eligible to receive a stipend check, where do I go and when can I expect a check?

Stipend checks will be processed as soon as the College receives students' award payments from the State, federal government, and other sources. Students eligible to receive stipend checks due to summer/spring tap grants, will receive the checks in the mail and an email reminder. Note that the funds will not be available until early October. In addition, students can access their financial aid information on the student portal of CampusVue.

When I look at the list of schools that I can transfer to, I notice that they offer different types of associate degrees. What is the difference?


There are various types of degrees depending on the number of liberal arts courses in each program. Below is a more detailed explanation.

- A.A. (Associate in Arts) – a two-year program where courses in the liberal arts comprise three-quarters of the degree requirements. This degree is specifically designed for college transfer.
- A.S. (Associate in Science) – a two-year program where courses in the liberal arts comprise half of the degree requirements. This degree is specifically designed for college transfer.
- A.A.S. (Associate in Applied Science) – a two-year program where courses in the liberal arts comprise a third of the degree requirements. This degree is typically used for entry-level employment in a career field. However, it can also be used for college transfer.
- A.O.S. (Associate in Occupational Studies) I – a two- year program where the focus is on entry-level employment in a career field. The number of liberal arts credits is usually 0. However, in some cases liberal arts courses can be offered in this degree program. It is typically not designed for college transfer, but in some cases it has been used for such.
- Certificate – programs which offer specific training in a career field without offering liberal arts courses. Programs usually are less than a year long.

Who should I contact if I have questions?

TCI has created a special email account. Please email your questions to TCITeachOut@tcicollege.edu and we will respond as quickly as possible.

Exhibit E



CALL US 212-672-6450

TCI STUDENTS EASY TRANSFER to ASA COLLEGE

- SPECIAL SCHOLARSHIP FOR TCI STUDENTS
- WE WILL HELP YOU TO GET YOUR TRANSCRIPT

GET MORE INFORMATION

First Name *

Last Name *

Email *


Phone Number *


Preferred Campus *
Select Campus ▼

SEND

JUST COME TO US:

OCTOBER 5 - 9AM- 8PM
OCTOBER 6 - 9AM- 8PM
OCTOBER 7 - 10AM-3PM





**1293 BROADWAY/
ONE HERALD CENTER,
NEW YORK, NY 10001**

212-672-6450

TCIStudentsTransfer@asa.edu

**81 WILLOUGHBY St,
BROOKLYN, NY 11201**

212-672-6450




Exhibit 2



Ron Bennett
Director, School Eligibility Service Group
U.S. Department of Education
830 First Street NE
Washington D.C. 20002

June 26, 2018

Re.: Technical Career Institute Closed School Discharge Notifications

Dear Mr. Bennett:

We write to follow up on our November 15, 2017 letter regarding the closure of the Technical Career Institute (TCI), a for-profit college in Manhattan. On September 1, 2017, TCI permanently closed.¹ Our office, which provides free legal services to low-income New Yorkers, has been contacted by many former TCI students seeking legal assistance with their federal student loans, and represents several such students in matters related to TCI's closure.

As you know, any student who was enrolled at TCI when it closed, or who withdrew from TCI within the preceding 120 days, is eligible for a closed school discharge, which relieves the student of all obligations to repay all federal student loans borrowed to attend TCI and entitles the student to a refund of any amount already paid on the loans.²

Upon becoming aware of the date of TCI's closure, the U.S. Department of Education (USED) was required to "identif[y] any Direct Loan borrower (or student on whose behalf a parent borrowed) who appears to have been enrolled at the school on the school closure date or to have withdrawn not more than 120 days prior to the closure date"; "mail[] the borrower a [closed school] discharge application and an explanation of the qualifications and procedures for obtaining a discharge"; and "promptly suspend[] any efforts to collect from the borrower on any affected loan."³ The Secretary's notice to students should be "timely."⁴ This notice is crucial

¹ U.S. Dep't of Educ., Closed School Monthly Report – Section I Sept. 2017 (Oct. 2, 2017) at 4–5, <https://www2.ed.gov/offices/OSFAP/PEPS/docs/sep17sec1.pdf> (listing September 1, 2017 as TCI's closure date).

² See 20 U.S.C. §§ 1087(c), 1087a(b)(2); 34 C.F.R. §§ 685.214(c)(1)(i), 685.214 (b)(1-2), 682.402(d)(2-3).

³ 34 C.F.R. § 685.214(f)(1-2).

⁴ 59 Fed. Reg. 61,664, 61,680 (Dec. 1, 1994).

because, as USED has itself recognized, many students are unaware of their right to a closed school discharge.⁵

On November 30, 2017, Ms. Chrisman responded to our November 15, 2017 letter by email. She acknowledged that the actions requested by our letter—that TCI students be notified of the school closure, mailed an application for a closed school discharge, and placed into forbearance—“are indeed required by federal regulation.” She also stated that Federal Student Aid was “looking into this issue.”

Since that time, however, we have received no further response from USED. Meanwhile, our office has spoken to dozens of former TCI students, and is being contacted on an ongoing basis by additional students. To date, not one of these students has received a notice from USED regarding the availability of a closed school discharge, and all of the students to whom we have spoken are still subject to collection activity. Accordingly, we ask that USED immediately identify all those TCI students potentially eligible for a closed school discharge; mail closed school discharge applications to all such borrowers in order to make them aware of their right to seek a discharge of their federal student loans; and suspend collection efforts, as required by regulation.

We respectfully request that you respond to this letter within thirty days, stating: (a) whether, and if so when, USED mailed closed school discharge applications to TCI students; (b) how the universe of students receiving the applications was identified; and (c) what efforts USED has undertaken to suspend collections for these students. If within that time we do not receive a response, we will consider USED to have denied our request for administrative action, and will pursue all available remedies on behalf of our clients, including a possible legal action similar to the lawsuit our office filed in *Salazar v. DeVos*, No. 14 Civ. 1230 (S.D.N.Y. 2014). If you have any questions, please contact me at (212) 613-5031 or jstevens@nylag.org.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jane Greengold Stevens', is written over a light gray rectangular background.

Jane Greengold Stevens

⁵ See 81 Fed. Reg. 39,330, 39,331 (June 16, 2016) (noting the need “to ensure borrowers are aware of . . . their ability to receive the discharge”).

cc:

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