



UNITED STATES DEPARTMENT OF EDUCATION  
WASHINGTON, D.C. 20202

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In the Matter of

**GLOBE UNIVERSITY (MN)**

Respondent

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**Docket No. 18-04-SA**

Federal Student Aid Proceeding

ACN: 05-2016-73518

Appearances: Robert W. Junghans, Esq. for Globe University

Angela L. Sierra, Esq. Office of the General Counsel, U.S. Department of Education,  
Washington, DC, for Federal Student Aid

Before: Robert G. Layton, Administrative Judge

**DECISION**

On November, 13 2017, the U.S. Department of Education's Federal Student Aid (FSA) office issued a Final Audit Determination (FAD) against Globe University (Globe), under § 437(c) of the Higher Education Act, and 34 C.F.R. § 685.214 (2014). The FAD found 18 students eligible for a loan discharge for a total liability of \$239,030.00. This amount included \$226,859.00 in student loans, \$3,387.00 in costs of funds, and \$8,784.00 in student loan verification fees. Globe appealed FAD Finding 2, which imposed student loan discharge liabilities on Globe for Student 1, 6, and 17. These student loan discharges are the subject of this appeal.

Under the Federal Direct Loan Program regulations, a student becomes eligible for a school closure loan discharge if their school's closure prevents completion of an academic program, or if a student withdraws from the school within 120 days prior to its closing and the student does not complete their educational program through a teach-out or transfer to another school. 34 C.F.R. §685.214. The FAD established \$9,259.00 in closed school discharge liability for Student 1, \$17,274.00 for Student 6 and \$53,314.00 for Student 17, or \$80,180.00 in total. Globe appealed all liability for Students 1 and 6, and asserted Student 17's discharge should be reduced to \$11,333.00.

The FSA agreed with Globe's contention for Student 17, ultimately reducing the liability for Student 17 even further to \$5,875.00. This brought Globe's revised liability for Student 1, 6, and 17 to \$32,741.00 and total liability for all 18 students to \$191,591.00.

## Issues

Globe contends Student 1 was not eligible to receive a loan discharge for \$9,592.00 because Globe expelled the student for failing to meet Globe's Satisfactory Academic Progress (SAP) standards before the school's closure. Ex. R-2. Globe contends Student 1 cannot qualify for a school closure loan discharge because it only applies to students who did not complete their academic program due to school closure or a withdrawal. Globe argues that an expulsion is distinct from a withdrawal and not applicable for a school closure loan discharge under the regulation.

Globe argues Student 6 should not receive a school closure loan discharge for \$17,274.00 because the student received an expulsion after she failed to meet SAP on three separate occasions. Similar to Student 1, Globe maintains that an expulsion should not qualify as a withdrawal under the regulation.

Globe separately argues that Student 6's School Closure Loan Discharge application contains false statements, which should also absolve Globe's liability for Student 6. Namely, Student 6 claimed to be still enrolled at the time of school closure, despite receiving notice of expulsion.

FSA argues that Globe failed to meet its burden in challenging the FAD's liabilities for Student 1 and 6. FSA points to the National Student Loan Data System ("NSLDS"),<sup>1</sup> which shows Student 1 and 6 as withdrawn within 120 days of the school closure. Neither 34 C.F.R. § 685.214 nor the NSLDS mentions expulsion, let alone distinguishes it from withdrawal, so FSA contends student expulsion does not affect Globe's liability for Student 1 and 6.

FSA's argument did not discuss when a student is finally and legally expelled, and whether the availability of an expulsion appeal affects a student's enrollment status. FSA's interpretation of the regulation deems that expelled students count as withdrawn within 120 days of the school closure. The issue of whether either student was legally expelled is essential to this decision. Students 1 and 6 received notice of expulsion in the few days immediately before Globe closed, but Globe's closure denied the students their right to appeal their expulsion as required by Globe's academic policies.

No issue remains for Student 17 because both parties agreed with FSA's reduced closed school discharge liability of \$5,875.00.

The issues to be addressed are:

**1. Under 34 C.F.R. §685.214, does a student's expulsion within 120 days of school closure prevent a loan discharge?**

**2. Under 34 C.F.R. §685.214, is an expelled student still considered enrolled for purposes of a closed school loan discharge when the school's closure prevents the student from appealing the expulsion?**

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<sup>1</sup> The NSLDS is the Department of Education's central database for student aid.

**3. Under 34 C.F.R. §685.214(c)(1), does an expelled student’s claim to be enrolled at the time of school closure constitute fraud when school closure prevents the student from appealing their expulsion?**

### **Summary of Decision**

Student 1, 6, and 17 are eligible for closed school loan discharges under 34 C.F.R. §685.214. FSA’s determination is **AFFIRMED**. Globe University is liable for \$32,741.00 in loan discharges for Student 1, 6, and 17, and also liable for the remaining uncontested amounts from the determination.

### **Finding of Facts**

Educational instruction ended at all of Globe University campuses on December 31, 2016. Ex. Ed. 1. Globe University also lost eligibility to participate in Title IV programs on the same date. Ex. Ed. 2. For purposes of determining eligibility for loan discharge, the school closed on December 31, 2016.

#### *Globe’s Academic Policies*

Globe expels students if they fail to meet their Satisfactory Academic Progress (SAP) standards. Ex. R-1. Students can fail to meet SAP in two ways. First, their cumulative GPA drops below a minimum threshold based on a pre-determined amount of credits at the end of each quarter. *Id.* For example, if a student attempts more than 36 credits in a 60 credit degree program, then they must achieve a cumulative GPA of 2.00 (on a 4.00 scale) by the end of the quarter or face expulsion. Second, their completion rate drops below 67% and fails to complete the program within 150% of the program’s standard time. *Id.* Globe also issues academic warnings if students fail to meet these benchmarks at pre-determined intervals. *Id.* For example, a student receives a warning if they have attempted 20 credits in a 60 credit degree program and their cumulative GPA is below 1.25. *Id.*

Globe’s policies list two consequences for failure to meet SAP: expulsion from financial aid and termination from the school. *Id.* Despite making an initial reference to termination, Globe’s academic policies neither explain its meaning nor mention the term again. Instead, Globe’s policies then switch to the term expulsion without providing a definition. *Id.* Globe provides detailed explanations about the various opportunities for expelled students to re-enroll at Globe immediately following expulsion. *Id.* Students receive notice of expulsion within ten business days of the end of the quarter and must file an appeal in writing within two weeks after the student receives a warning or financial aid expulsion. *Id.* Again, the policies do not explain the difference between expulsion and financial aid expulsion, especially in regards to their finality. *Id.*

Globe’s expulsion policy does not convey immediate removal from the school. Students receive two weeks to appeal an expulsion and it does not become final unless a campus

committee rejects the appeal. *Id.* In their letters to students Globe reiterates that expulsion is not final pending an appeal. Ex. R-3.

### *Student 1*

Student 1 enrolled at Globe, Eau Claire Campus on January 4, 2016. Ex. R-2. Student 1 received a SAP warning letter on March 29, 2016 that explained quarterly SAP review and resources to improve academic standing. *Id.* The student acknowledged his academic standing on April 4, 2016. Ex. R-3. Student 1 received and acknowledged another academic warning because his GPA remained below 2.00 on July 6, 2016. *Id.* Student 1 received a third warning letter on September 27, 2016, which the student acknowledged on October 13, 2016. *Id.* Finally, the student received notice of expulsion on December 28, 2016 because the student's cumulative GPA remained below 2.0 despite over 36 credits earned. *Id.* The school closed three days later on December 31, 2016. Ex. Ed-1.

Because the school closed, Student 1 could not appeal the expulsion, but did submit a school closure loan discharge application on March 7, 2017. Ex. Ed-16. While Student 1 reported a November 14, 2016 withdrawal date on his school closure loan discharge application, two discrepancies exist in the record. *Id.* First, the NSLDS reported a withdraw date on November 10, 2016. Ex. Ed-7. Second, and more importantly, Globe's notice of expulsion letter to Student 1—its only exhibit related to the date of withdrawal—was sent on December 28, 2016. Ex. R-3. This notice of expulsion encouraged Student 1 to continue enrollment, despite the school's imminent closure three days later. *Id.*

### *Student 6*

Student 6 enrolled at Globe on October 6, 2014 in a Bachelor of Science degree program. Ex. R-4. Student 6 withdrew from all of her classes and received an SAP warning letter on December 30, 2014. *Id.* Student 6's grades improved slightly but still fell below SAP and she received another warning on June 18, 2015. *Id.* A Globe administrator sent notice of expulsion via email on September 30, 2015. Ex. R-5. Student 6 appealed her expulsion and opted to re-enroll in the an Associate in Applied Science degree program. *Id.* She received another academic warning in spring 2016 and then was sent an expulsion notice in summer 2016. *Id.* At this point, Student 6 appealed and switched to a related diploma program. *Id.* Finally, the dean of students mailed an expulsion notice on December 29, 2016. *Id.*

Even though the Respondent's brief described this third expulsion as permanent, Resp't Br. 9, the text of her expulsion letter did not mention it. Instead, the expulsion letter presented the same options for extended enrollment and appeal as the other expulsion letters. Ex. R-5. In addition, Student 6's transcript used the same term, "SAP Expulsion," for each of Student 6's expulsions and never showed any permanent expulsion status. *Id.*

Because the school closed, Student 6 could not appeal the third expulsion, but filled out a school closure loan discharge application. Ex. Ed-17. The student indicated that she was still enrolled when the school closed on December 31, 2016. *Id.* The NSLDS report stated she

withdrew from the school on December 12, 2016 (Ex. Ed-8), but Globe's submitted evidence shows Student 6 received official notice of the expulsion on December 29, 2016. Ex. R-5.

### *Student 17*

Student 17 enrolled at Globe University during high school through a dual-degree program in summer of 2014 and completed her Associate Degree in Applied Science in summer of 2016. Ex. R-8. Student 17 chose to pursue her bachelor degree at Globe the following quarter, but did not complete because of the school's closure. *Id.* After Globe submitted evidence that Student 17 completed her associate degree, FSA reduced the liability established in the FAD from \$53,414.00 to \$5,875.00. Globe has no obligation to repay loans for completed degrees. Ex. Ed-1.

### **Principles of Law**

The closed school discharge provision for Federal Direct Loans states that the Secretary will discharge a borrower's obligation to repay a Direct Loan "if the borrower... did not complete the program of study for which the loan was made because the school at which the borrower... was enrolled closed, as described in paragraph (c) of this section." 34 C.F.R. §685.214(a)(1).

Student eligibility requires that the student:

(A) Received the proceeds of a loan, in whole or in part, on or after January 1, 1986 to attend a school;

(B) Did 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...

(C) Did 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).

34 C.F.R. §685.214(a)(1)(B) is at issue for Students 1 and 6.

The regulation also specifies that students' factual assertions in closed school loan discharge applications "must be true." 34 C.F.R. §685.214(c)(1). Globe argues this provision should foreclose their liability for Student 6 due to the alleged false statements on the school closure loan discharge application.

### **Analysis**

#### *Student 1*

To qualify for a closed school loan discharge, a student must have been unable to complete their program of study because the school for which the loan was made closed, or else must have withdrawn from the school within 120 days prior to its closure. 34 C.F.R. §685.214(a)(1)(B). The regulation does not expressly describe an expulsion as a withdrawal. The question presented is: When a school closes, is a student with an appealable expulsion still a student?

Respondent claims no ambiguity exists because the federal regulations make a distinction between withdrawn and expelled pursuant to 34 C.F.R. §682.208(f)(1)(A). This particular section separates “withdrawn” and “expelled” as distinct student conditions during the loan servicing process. A similar argument appeared in *Minnesota School of Business*, 17-32-SA (2017). That decision also considered how Merriam-Webster’s dictionary provides each word with distinct meanings.

Respondent’s claim is not the determinative issue. In this appeal, the students at issue neither “withdrew” nor were “expelled”. As in the present case, the issue in *Minnesota* did not control the outcome of the decision because the school closed before the expulsion was finalized. The question in both cases is not whether an expulsion is a withdrawal, but the preliminary question of whether an expulsion occurred. According to the school’s policy, students may appeal their expulsion and are not considered permanently unenrolled until the review process is complete. The expelled student submitted their appeal, but the administration never processed the request before the school closed. Moreover, the school bore the burden of proof in establishing whether the expulsion was final but provided no evidence to rebut the student’s enrollment status. 34 C.F.R. §668.116(d); 17-32-SA. Therefore, the expelled student nonetheless remained eligible for a loan discharge because the school failed to finalize their enrollment status before the date of school closure. *See* 34 C.F.R. §685.214(f)(1) (stating any student who appears to be enrolled at school closure qualifies for a loan discharge).

Student 1 could not appeal the expulsion because Globe sent official notice just two business days before its closure on December 28, 2016. Ex. R-3. This late notice violated Globe’s mandated two week appeal window and prevented the expulsion from being finalized. Ex. R-1. Student 1 could not reasonably expect the appeal to be processed two days before school closure, especially given past experience with multiple day time-lags between SAP violation and official acknowledgement of the violation. Ex. R-3. Globe’s late notice of expulsion, merely two business days before school closure, meant that Student 1 was not finally expelled, based on Globe’s own policy.

Globe also argues that Student 1 should be considered unquestionably expelled based on the NSLDS recorded withdrawal date of November 11, 2016. This date provides more than a two-week window to appeal the expulsion before school closure. That date is not dispositive when Student 1 only received notice seven weeks later, at which time Globe continued to hold out the possibility of continued enrollment in the letter from its dean of students.

Globe’s burden to demonstrate finality of expulsion adheres to the purpose of the regulations. The regulations do not mention expulsion during school closure, because their purpose is to “seek to improve the efficiency of Federal student aid programs.” 64 Fed. Reg.

58938-01 (Nov. 1, 1999). Instead, the regulations only need to identify students who are enrolled or appear to be enrolled within 120 days of school closure to resolve the federal government's loan obligations. 34 C.F.R. §685.214(a)(1)(B). Student 1's loan was properly discharged, because Student 1 was enrolled at Globe when it closed.

### *Student 6*

Student 6 is also entitled to loan discharge. As with Student 1, Globe's last minute expulsion notice prevented an opportunity to appeal, so Globe cannot meet their burden that Student 6's expulsion was final. 34 C.F.R. §668.116(d). Student 6 received official notice of expulsion one day later than Student 1, on December 29, 2016. The official notice offered Student 6 the same options to continue enrollment as Student 1 and similarly encouraged Student 6 to speak with the dean of students to discuss these options. Ex. R-5. Globe's closure two days later meant Student 6 could not pursue Globe's mandated two-week expulsion appeal window. Ex. R-1.

Globe argues in spite of the late notice, they satisfied their burden because Student 6 was permanently expelled after receiving three separate notices of expulsion. Resp't Brief at 9. A permanent expulsion does not allow any appeals, so Student 6, unlike Student 1, had no opportunity to continue enrollment. In short, Globe contends Student 6 could not be enrolled at the school's close. Globe's policies do not mention the term permanent expulsion. Ex. R-1. Globe's transcripts do not show any difference between Student 1's first expulsion and Student 6's alleged permanent expulsion. *Compare* Ex. R-3, *with* Ex. R-5. Student 6's third expulsion letter does not mention permanence. Ex. R-5. Instead, it uses the same template and presents identical appeal and re-enrollment options as Student 1's first expulsion letter. *Id.* Student 6's expulsion was no different than Student 1's.

Respondent argues even if Student 6 was not permanently expelled, Student 6's alleged false statements on her school closure loan discharge application should preclude loan liability. Resp't Reply Br. 6. False statements violate the regulation's requirement that loan discharge applications "must be true." 34 C.F.R. §685.214(c)(1). Respondent claims that Student 6 violated the regulation by claiming to be enrolled when the school closed on December 31, 2016, even though she had received notice of being expelled two days earlier. Ex. Ed-17.

Respondent has now shown that Student 6 made a false statement on the loan discharge application. The burden rests on Globe "to provide testimony, documents, or a sworn statement that does not support the material representations made by the borrower to obtain the discharge." 34 C.F.R. §685.214(d)(2). Their submitted evidence shows Student 6 received the opportunity to continue enrollment on her expulsion letter—just one business day before Globe closed. Ex. R-5. Globe's was unable to finalize expulsions because it almost immediately closed. It was reasonable and accurate for Student 6 to claim enrollment status on the loan discharge application. Student 6 did not make a false claim and remains eligible for a loan discharge.

### *Student 17*

In its brief, FSA agrees that Student 17 graduated from Globe with an Associate Degree in Veterinary Technology, and agrees that as a result, instead of \$53,314 in liability for Student 17, only loan liability of \$5,875 for loans after her associate graduation date should be repaid by Globe. In its reply brief Globe agrees the \$5,875 amount is not being contested.

### **Conclusions of law**

- 1. Student 1 is eligible for a closed school loan discharge after receiving an initial notice of expulsion.**
- 2. Student 6 is eligible for a closed school loan discharge after receiving a third expulsion notice.**
- 3. Student 6 did not make false claims on the school loan discharge application.**

### **ORDER**

Student 1, 6, and 17 are eligible for closed school loan discharge under 34 C.F.R. § 685.214. FSA's determination is **AFFIRMED**. Globe University is liable for \$9,592.00 for Student 1, \$17,274.00 for Student 6, and \$5,875.00 for Student 17, for a total loan discharge liability of \$32,741.00, and total liability for all 18 students to \$191,591.00.

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Robert G. Layton  
Administrative Judge

**Date of Order: January 18, 2019**



**SERVICE**

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