

# A New Chapter: A successful restructuring for a private university

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In January 2020, Quest University Canada, a private, secular, not-for-profit post-secondary institution, sought relief under the *Companies' Creditors Arrangement Act* (CCAA). A first for any university in Canada.<sup>1</sup>

Quest completed a successful restructuring in December 2020, enabling Quest to continue to offer its internationally renowned academic programming. COVID-19 hit Quest particularly hard given the university's focus on in-person, experiential and seminar-based learning in small classes. Quest's restructuring involved the sale of certain assets and lands and transitioning to a leasing arrangement with an academic partner that will provide financing and operational support and expertise in the coming years.

Quest is not alone as a school facing financial challenges in 2021. International enrollments are down; on-campus housing and restaurant revenue have fallen sharply; and funds generated from hosting public events, concerts and conferences have dropped dramatically in a year where we all stayed home. The University of British Columbia estimates a 2020-21 fiscal year deficit of CA \$100 million. UBC's economic recovery is expected to be a multi-year project.<sup>2</sup>

However, most Canadian universities, like UBC, are public and supported, in part, by public funding. Faced with financial challenges, the same avenues are not generally available to private educational institutions. The CCAA affords relief for entities such as corporations and co-operatives looking to restructure and proved to be a useful tool for an educational institution like Quest.

There are over 80 private universities and colleges in Canada. In addition, there are over 1,400 private career colleges, language schools and theological schools.<sup>3</sup> Further, there are approximately 2,000 private and independent schools in Canada for kindergarten through grade 12,<sup>4</sup> making private education a significant sector of Canada's economy.

COVID-19 is threatening the current educational model, and difficult times may be ahead. Although some schools will find ways to adapt, others may disappear. According to one estimate in the United States, one third of private colleges south of the border will be insolvent within the next six years.<sup>5</sup>

Further, the US is already seeing COVID-19 litigation against universities in the form of class action lawsuits by students seeking refunds for tuition and fees while classrooms stay empty.

Others question if online models will persist. Like many industries, schools of all shapes and sizes must grapple with how their models and fees will adjust post-COVID, to align with any online teaching that remains and the lower cost of instruction that does not require gymnasiums, theatres, residences or the real estate that goes along with them.

Over the next few years institutions will focus on rightsizing their operations and making adjustments to succeed in the new normal. Some of this may involve in and out of court restructurings, mergers and partnerships, and creative new visions for how education is offered.

John Sandrelli, Tevia Jeffries, Valerie Cross and Emma Newbery were counsel to Quest University Canada during its insolvency proceedings. For questions on how your educational institution may respond to financial challenges and restructuring options please contact a member of our team.

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2. Nelson Bennett, "B.C.'s recovery economy: Pandemic's toll on B.C. universities, colleges", Pique Newsmagazine (13 January 2021) <https://www.piquenewsmagazine.com/bc-news/bcs-recovery-economy-pandemics-toll-on-bc-universities-colleges-3258131>.
3. Sharon X. Li & Glen A. Jones, "The 'invisible' sector: Private higher education in Canada" in K.M. Joshi & Saeed Paivandi eds., *Private higher education: A global perspective* (Delhi, India: B. R. Publishing Corporation, 2015) 1 at 12-14.
4. Kathy Kerr, "Primer on private schools", *The Globe and Mail* (25 September 2018) <https://www.theglobeandmail.com/canada/education/article-primer-on-private-schools/>; Marlene Habib, "How to choose the best private school for your child", *The Globe and Mail* (25 September 2020) <https://www.theglobeandmail.com/featured-reports/article-how-to-choose-the-best-private-school-for-your-child/>.
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