

STATE OF MARYLAND
OFFICE OF THE
COMMISSIONER OF FINANCIAL REGULATION

MARYLAND DEPARTMENT OF LABOR
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**REPORT OF THE
STUDENT LOAN OMBUDSMAN**

For the Year Ending December 31, 2022

Presented to:

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President
Senate of Maryland
State House, H-107
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker
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OFFICE OF THE COMMISSIONER OF FINANCIAL REGULATION MISSION

The Office of the Commissioner of Financial Regulation (OCFR or the “Office”), established in 1910, is Maryland’s consumer financial protection agency and financial services regulator. The Office's mission is to protect Marylanders through the operation of a modern financial regulatory system that promotes respect for consumers, safety and compliance, fair competition, responsible business innovation, and a strong state economy.

STUDENT LOAN OMBUDSMAN PROVISIONS

The Financial Consumer Protection Act of 2018, effective October 1, 2018, and codified in pertinent part at Financial Institutions Article § 2-104.1 *et. seq.* (the “Act”), provides that the Commissioner of Financial Regulation (the “Commissioner”) shall designate an individual to serve as the Student Loan Ombudsman (the “Student Loan Ombudsman” or the “Ombudsman”). The Student Loan Ombudsman is to serve as a liaison between student loan borrowers and student loan servicers.

The Act and subsequent amendments to FI § 2-104.1 specify certain activities that are to be undertaken by the Student Loan Ombudsman, among them:

- 1) Receiving and processing, in consultation with the Commissioner, complaints about student education loan servicing;
- 2) Referring matters that are deemed abusive, unfair, deceptive, or fraudulent to the Office of the Attorney General for civil enforcement or criminal prosecution;
- 3) Referring complaints of violations of student education loan servicing standards to the OCFR for investigation;
- 4) Disseminating information about the Student Loan Ombudsman and about student education loans and servicing;
- 5) Analyzing and monitoring the development and implementation of federal, State, and local laws, regulations, and policies on student loan borrowers;
- 6) Disclosing the complaint data the Student Loan Ombudsman compiles and analyzes;
- 7) Making certain recommendations and a yearly report to the General Assembly; and
- 8) On or before October 1, 2019, establishing, in consultation with the Commissioner, a student loan borrower education course.

STUDENT LOAN OMBUDSMAN’S REPORT ON THE ESTABLISHMENT OF THE STUDENT LOAN OMBUDSMAN POSITION

The Ombudsman is to report its findings and any recommendations to the General Assembly in accordance with § 2-1257 of the State Government Article. This Report will include:

- 1) A description of the Ombudsman’s activities throughout the year;
- 2) A discussion of federal, state and local developments affecting student loan servicing;
- 3) The Ombudsman’s findings, analysis and recommendations regarding complaint data and data trends; and
- 4) A discussion as to whether there are any statutory changes needed to ensure that the student loan servicing industry is fair, transparent, and equitable for Maryland borrowers.

OMBUDSMAN’S MISSION

Pursuant to the Act, the Student Loan Ombudsman was designated by the Commissioner and commenced service in October 2018. The Act requires the Ombudsman to monitor student loan servicing activity in Maryland and sets forth various duties of the Ombudsman.

The Ombudsman’s primary function is to provide student loan borrowers with a state-level office that can assist them in resolving their complaints about student loan servicers (“servicers”). The Ombudsman provides information about student loan processes and acts as a liaison between student loan borrowers and student loan servicers to attempt to facilitate solutions to problems and to have mistakes corrected. In addition to serving student loan borrowers, the Ombudsman gathers information about the state of student loan servicing in Maryland in order to inform the public and the State legislature about student loan issues and trends. That information is provided to the public, and complaint data and any recommendations, are provided to the General Assembly in the Ombudsman’s annual report. If the complaints identify potential violations of law or unfair, deceptive, or fraudulent actions, the Ombudsman may refer them to the OCFR or Maryland Office of the Attorney General for investigation and civil enforcement or criminal prosecution.

The Act also requires student loan servicers operating in Maryland to: (a) designate an individual to represent the student loan servicer in communications with the Ombudsman, and (b) provide the designee’s name, phone number, and e-mail address to the Ombudsman. Finally, as required by the Act, the Ombudsman established, in consultation with the Commissioner, a student loan borrower education course that can be accessed through the Ombudsman’s webpage at:

www.labor.maryland.gov/finance/consumers/frslombudcurriculum.pdf.

On May 13, 2019, Governor Larry Hogan signed into law HB 594/SB670 which further enhanced the Act. The Act added provisions that prohibit student loan servicers from engaging in certain conduct, including, among other things, any of the following:

- Employing any scheme, device, or artifice to mislead a student loan borrower;
- Engaging in any unfair, abusive, or deceptive trade practice; or
- Knowingly misapplying or refusing to correct a misapplication of payments; or
- Failing to apply non-conforming payments as directed by the borrower.

The law also requires student loan servicers to respond to inquiries and complaints within 30 days of receipt, authorizes the Ombudsman to refer complaints to the OCFR, and grants enforcement authority to the OCFR. Finally, any violation of the law is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act. The effective date of the new provisions was October 1, 2019.

STUDENT LOAN BORROWER’S BILL OF RIGHTS

On October 22, 2020, the Ombudsman published a Student Loan Borrower’s Bill of Rights (BOR) for Maryland residents. The BOR is based on the 2018 Act and 2019 legislation that enhanced it. The Ombudsman realized that although the Act contained many protections for student loan borrowers, there was a need to better communicate the rights and responsibilities it contained to student loan borrowers. The BOR is a document that provides guidance to Maryland residents who are repaying student loans by succinctly describing, in plain language, the protections to which borrowers are entitled as well as clearly stating the standards that student loan servicers must meet related to responsiveness, payment allocation, record retention, and reporting to credit bureaus. The BOR is intended to serve as tool for student loan borrowers to use in their interactions with their loan servicers and can be accessed at the following link:

www.labor.maryland.gov/finance/consumers/frslbillofrights.pdf.

In addition, the Ombudsman created a specific BOR page on the OCFR website at:

www.labor.maryland.gov/finance/consumers/frslbillofrights.shtml

The Ombudsman also issued an Advisory announcing the publication, available at this link:

www.labor.maryland.gov/finance/advisories/advisory-studentloanbillofrightsconsumer.pdf

AN OVERVIEW OF STUDENT LOANS

As of November 2022, student loan debt in the United States exceeded \$1.769 trillion, an increase of 0.9% over the same period in 2021. Approximately 90% (\$1.59 trillion) of that debt is federal debt financed by the U.S. Department of Education and the remaining 10% (\$179.0 billion) is

considered private or institutional debt. Over the past 14 years, the market for student loan debt has expanded by 194.8% from \$600 billion in 2007 to \$1.769 trillion today while the number of borrowers in that time has increased by 51.7% from approximately 29 million to more than 44 million^{1,2}.

The average federal loan balance in 2022 is \$37,787 while the total balance (including private student loan debt) is estimated to be as high as \$40,780. State averages for student debt load at graduation range from a low of \$28,604 in North Dakota to a high of \$54,945 in Washington DC while the average student loan debt in Maryland is \$42,861. The state has approximately 837,600 student loan borrowers who combined have a total of \$35.9 billion in student loan debt. This represents 13.6% of state residents, 50.5 % of whom are under the age of 35³. Last year, 55% (versus 53% in 2020 and 55% in 2019) of students in Maryland graduated with debt from attending a third level educational institution⁴.

Student loan debt remains the second highest consumer debt category in the U.S. behind mortgage debt and continues to be higher than both credit card debt and auto loans. In addition, historically, the average U.S. student loan delinquency/default rate (90+ days delinquent) for the three years prior to the passage of the Coronavirus Aid, Relief, and Economic (CARES) Act of 2020 was 11.2%, which was higher than the delinquency rates for other types of household debt⁵. That delinquency/default rate has since decreased to 4%, as of November 2022, reflecting the financial relief provided to borrowers by the CARES Act. When that relief expires, the rate may eventually return to its historic levels.

Some economists continue to be concerned that student loan debt burden on borrowers could constrain current and future consumer consumption and limit economic growth because significant levels of student loan debt negatively impact personal credit scores and borrowers' ability to access other types of debt such as mortgages, auto loans, and credit card debt which are utilized in the formation of households⁶.

In addition to the overall debt burden of student loans, concerns continue to be voiced by consumer advocacy groups about the quality of the servicing of such loans. The most significant concerns that have been raised involve the borrowers' inability to obtain accurate information about their

¹ The Federal Reserve Bank of New York's Center for Microeconomic Data *Quarterly Report on Household Debt and Credit*, (3rd Quarter, November 2022) and

² G19 Consumer Credit Series. The Federal Reserve Bank of St. Louis, Student Loans Owned & Securitized, Outstanding, (November 7, 2022)

³ Hanson, Melanie. "Student Loan Debt Statistics" EducationData.org, April 3, 2022, and October 26,2022 <https://educationdata.org/student-loan-debt-statistics>

⁴ The Institute for College Access and Success: 16th Annual Report on Student Debt and the Class of 2020 (November 2021)

⁵ The Federal Reserve Board, Student Loans, Access to Credit and Consumer Financial Behavior (June 2021)

⁶ The Federal Reserve Board, Student Loans, Access to Credit and Consumer Financial Behavior (June 2021)

loans and about their options for repayment, particularly if they encounter difficulty in making payments.

The Student Loan Ombudsman in the Consumer Financial Protection Bureau (CFPB or “Bureau”) reviewed servicers’ practices and has reported on issues it identified relating to the servicing of student loans in its Annual Reports. A review of these findings is described in the CFPB section of this Report (see, pages 6 and 7).

COVID-19 Impact and the CARES Act

The CARES Act provided federal student loan payment relief to student loan borrowers and was made retroactive to a March 13, 2020, emergency declaration by then President Trump. The CARES Act, and subsequent Presidential executive orders by both President Trump and President Biden, extended the temporary suspension of payments (“forbearance”) and a 0% interest period for most federal student loans until June 30, 2023 (“Period”). Other provisions of the CARES Act are described in detail in last year’s Annual Report.

The CARES Act helped federal student loan borrowers avoid payment delinquency and protected their credit records from the reporting of skipped or deferred payments by the U.S. Department of Education, however, the Act did not provide relief to private student loan borrowers (including some Federal Family Education Loans (FFEL) and Perkins loans owned by private lenders). Some private student loan lenders did offer various forms of relief although none were as extensive, nor did they all match the relief period provided by the CARES Act. As a result, and notwithstanding the lack of comprehensive relief provided to private student loan borrowers, the U.S. student loan default rate decreased from a three-year average of 11.2% (FY 2017, FY 2018, and FY 2019) to 6.5 % in FY 2020, 5.7% in FY 2021 and to 4% in November of this year.

Expiration of the CARES Act and Student Loan Account Transfers

The CARES Act relief for student loans is now set to expire on June 30, 2023. The Ombudsman anticipates a potentially significant increase in the number of complaints when over 25 million borrowers are expected to be returned to repayment status. In June 2021, the U.S. Department of Education (ED) estimated that approximately 500,000 Direct Loan borrowers had continued, as of March 31, 2021, making their loan payments during the pandemic versus approximately 18.1 million borrowers who had been making their loan payments during the same period in 2019, prior to the passing of the CARES Act. As of September 2022, ED now estimates that there are more than 25 million Direct Loan borrowers with outstanding loans of about \$1 trillion that are now in CARES Act forbearance status. There is concern that many borrowers will struggle to repay their loans once the CARES Act protection expires despite many of the initiatives announced by ED this year which are discussed in more detail later in this report.

Adding to the administrative challenge for ED and its servicers of onboarding and returning so many borrowers to repayment, was the transfer last year and this year of 16 million student loan accounts from several prior servicers namely, FedLoan Servicing (operated by the Pennsylvania Higher Education Assistance Agency - PHEAA), Navient, and Granite State Management and Resources (New Hampshire Higher Education Loan Corp. – “Granite State”) to Maximus, Inc. Borrowers experienced problems with servicers during similar past account transitions and this massive transfer of loans may again cause borrowers problems and increase complaint volumes. The Ombudsman has not been able to confirm the exact number of Maryland borrowers that had their accounts transferred and will continue to monitor developments and assess ways to help protect and inform Maryland borrowers.

FEDERAL, STATE, AND LOCAL DEVELOPMENTS

Activity of the Consumer Financial Protection Bureau

The Dodd-Frank Wall Street Reform and Consumer Protection Act established a student loan ombudsman within the CFPB. Since 2011, the CFPB Ombudsman has investigated complaints regarding student loan servicers and acted as an impartial liaison between borrowers and the student loan industry.

As of the time of this report, Robert G. Cameron serves as the CFPB Private Education Loan Ombudsman. Mr. Cameron issued Annual Reports in October of 2019, 2020, 2021 and 2022. Since the CFPB Ombudsman did not issue an Annual Report in 2018, Mr. Cameron combined the two reporting periods into his 2019 report. In his 2022 Annual Report, Mr. Cameron reported that the Bureau handled 8,410 complaints, a 60% increase over the prior year. 5,450 (64.8%) were federal loan-based complaints and 2,960 (35.2%) were private loan-based complaints. Complaints from Maryland residents totaled 196 (3.6%) and 72 (2.4%), respectively, representing small increases in both categories from the amounts reported last year. The CFPB Ombudsman noted that the increase in complaints this year reversed the downward trend of the prior three years although he did not offer reasons or causes for the increase. He did note that there was an increase in debt collection and scam related complaints this year. The three prior years of decreasing complaints were attributed to the relief provided to borrowers by the CARES Act as well as several additional factors including: borrower education and outreach by federal and state agencies, regulators, and consumer advocates, as well as the continued maturation of student loan servicers’ compliance and complaint monitoring systems and their internal consumer advocate and ombudsman offices. The 2022, 2021 and 2020 Reports can be found at the following links, respectively:

https://files.consumerfinance.gov/f/documents/cfpb_education-loan-ombudsman_report_2022-10.pdf

https://files.consumerfinance.gov/f/documents/cfpb_education-loan-ombudsman-annual-report_2021.pdf

https://files.consumerfinance.gov/f/documents/cfpb_annual-report_private-education-loan-ombudsman_2020.pdf

The 2022 Ombudsman's annual report found, as in prior years, that the majority of borrowers' complaints were related to difficulties dealing with their servicers. Complaints identified in the CFPB Ombudsman's reports include: difficulty repaying a loan, difficulty with credit reporting, difficulty with getting a loan, as well as egregious and deceptive behavior on the part of servicers, including misapplying payments, putting students in forbearance, not directing students towards the proper repayment plan, and other misdirection that has led to confusion and oftentimes inability for the borrower to repay their loans. The Ombudsman indicates that last year's modifications to the Public Service Loan Forgiveness program by the U.S. Department of Education (ED) may have caused borrowers to initiate contact with their servicers to investigate whether they qualified for the program. The CFPB Ombudsman also noted in his report that the top five servicers in 2022 with the most federal student loan complaints were AES/PHEAA (1,486 complaints), Navient (771 complaints), NelNet, Inc. (611 complaints), Maximus Education (391 complaints), and MOHELA (118 complaints). He also noted that the top 5 servicers with the most private student loan complaints were Navient (761 complaints), SLM Corporation (272 complaints), NelNet, Inc. (229 complaints), AES/PHEAA (138 complaints) and Discover Bank (69 complaints).

As mentioned in the three prior Ombudsman's Annual Reports, in September 2017, the CFPB brought an enforcement action against certain trusts holding securitized student loans. CFPB alleged that the trusts violated consumer financial protection laws in connection with the collection of the outstanding student loan balances. The case, Consumer Financial Protection Bureau v. The National Collegiate Student Loan Master Trust, (NCSLMT) was brought against a group of 15 Delaware statutory trusts and involved more than 800,000 student loans that were originally made to students by private banks. The case had potential significance for Maryland borrowers because NCSLMT had filed 1,257 cases against Maryland borrowers from 2014 to 2019. In May 2020, the Court rejected a proposed stipulation of judgement that the CFPB believed it had worked out with the defendants based on interpreting Delaware Trust law requiring that any settlements be approved by the Owner-Trustee. The Court determined that the CFPB should have negotiated directly through the Trustee, and not with the owners directly and in March 2021, decided in favor of NCSLMT and dismissed the lawsuit. On February 11, 2022, the Court granted an NCMLST Motion to Certify an Interlocutory Appeal. This case is now stayed at the District Court level while the two issues centered on the jurisdiction of the CFPB and statutes of limitations are appealed to the Third Circuit Court of Appeals.

Due to a significant increase in borrower-related complaints about student loan debt relief companies and ongoing concerns about potential wrongdoing and misrepresentations by student loan servicers, the Bureau, over the last three years, has filed complaints and proposed stipulated judgements against several entities throughout the United States. In 2020, it announced additional enforcement actions against three student loan relief companies, which were detailed in last year's

annual report and illustrated the nature of the wrongdoing. Last year, the CFPB announced another enforcement action, when in March 2021, it sued a student loan debt relief company, its owner, and manager for allegedly charging thousands of consumers more than \$3.5 million in illegal upfront fees. The lawsuit, filed in U.S. District Court for the Central District of California, accuses California-based Student Loan Pro, Judith Noh, and Syed Gilani of violating the Telemarketing Sales Rule (TSR). FNZA Marketing, LLC was also named as a relief defendant. Student Loan Pro, which operated from 2015 through 2019, provided federal student loan debt-relief services to consumers nationwide. The CFPB alleges that the company charged borrowers illegal upfront fees to file paperwork on their behalf to access free debt-relief programs available to consumers with federal student loans. The CFPB alleges that Student Loan Pro's advance-fee violations cost approximately 3,300 consumers more than \$3.5 million in advance fees and is seeking injunctive relief, consumer redress, and civil money penalties against Student Loan Pro, Noh, and Gilani, and seeks to have FNZA disgorge the funds it received from Student Loan Pro. The CFPB's lawsuit, which is still ongoing in 2022, seeks monetary relief for consumers and asks the court to end the illegal conduct.

The CFPB also continued its enforcement activity against student loan servicers and other student loan related companies during the past year. In March 2022, the CFPB sanctioned Edfinancial Services, LLC (Edfinancial), a student loan servicer that serviced both Federal Family Education Loan Program (FFELP – which was discontinued in 2010) and Direct loans on behalf of ED for making deceptive statements to student loan borrowers and misrepresenting the forgiveness and repayment options available to them through the Public Service Loan Forgiveness (PSLF) Program, a federal government program at ED that forgives student-loan debt for certain borrowers who work in public service and make 120 qualifying loan payments (details of the PSLF are discussed in greater details on Page 11 of this report).

The Order stated that Edfinancial's deceptive statements to FFELP borrowers, including, in many instances, telling borrowers that they were ineligible for the PSLF program, even though borrowers could have become eligible by consolidating their loans; telling borrowers could not consolidate their loans; telling borrowers' that their past payments qualified when they didn't; and telling borrowers that qualifying jobs did not qualify for PSLF. The Bureau also found that, in numerous instances, when FFELP borrowers asked about forgiveness options available to them, Edfinancial's representatives did not mention PSLF as an available option. The Consent Order required Edfinancial to contact all its FFELP borrowers to inform them of the limited waiver so that eligible borrowers could take advantage of it before it expires and to pay a \$1 million civil money penalty.

Due to a significant increase in borrower-related complaints about student loan debt relief companies and ongoing concerns about potential wrongdoing and misrepresentations by student loan servicers, the Bureau, over the last three years, has filed complaints and proposed stipulated judgements against several entities throughout the United States. In 2020 and 2021, it announced

additional enforcement actions against four student loan relief companies, which were detailed in last year's and the prior year's Ombudsman's annual reports. This year, the CFPB announced another enforcement action, when in March 2022, it shut down "Processingstudentloans", a student loan debt relief company based in California, after the company and its owner unlawfully charged up front fees to customers and made false promises about possible savings through reduced payments and loan forgiveness. The owner of the company was fined \$175,000 and was permanently banned from offering or providing debt-relief products or services, financial advisory services, and other related products or services. The fine, upon collection, will be deposited to the CFPB's victims' relief fund.

A listing of the CFPB's enforcement actions can be found at:

www.consumerfinance.gov/policy-compliance/enforcement/actions/

Rohit Chopra, who was appointed by the U.S. Senate last year, still serves the Director of the CFPB. Mr. Chopra had previously served as an Assistant Director of the Bureau and as the Agency's first Student Loan Ombudsman and has significant experience in student loan matters. That development, along with policy and leadership changes announced by ED last year, have resulted (as anticipated) in a closer level of coordination and cooperation between both agencies over the last twelve months. The Ombudsman will continue to monitor and report on any other developments at the CFPB.

Activity of the Federal Trade Commission

The Federal Trade Commission (FTC) noted no new student loan debt relief cases or proceedings during the year. The Ombudsman will continue to monitor and report on any other developments at the FTC.

Activity of the U.S. Department of Education

As anticipated by the Ombudsman in last year's annual report, the U.S. Department of Education (ED), the federal agency responsible for selecting and overseeing student loan servicers has, under a new Presidential administration, decided to review and overturn many past policies, regulations, and decisions of the prior administration and those changes, detailed in this section of the report, have begun to positively impact borrowers.

- *Preemption Determinations*

In August 2021, ED released a legal interpretation that revised and clarified its position on the legality of state laws and regulations that govern various aspects of the servicing of federal student loans. The interpretation overturned the interpretation issued by the prior administration and clarified that while federal law does preempt state regulation in certain narrow areas, states can regulate student loan servicing in many other ways without being preempted by the *Higher*

Education Act (HEA). That issuance adopts an interpretation that is more consistent with case law on federal preemption and the Department's longstanding practice. The change was part of the Agency's efforts to strengthen the student loan program by enhancing oversight and accountability for student loan servicers in order to protect students, borrowers, and taxpayers. The action was supported by state regulations through the CSBS and NACARA. In 2022, there were no other further developments or announcements from ED on this subject. The Ombudsman will continue to monitor and report on any further developments on this topic.

- ***Student Loan Investigations***

As mentioned in last year's annual report, ED in May 2021, announced that it was rescinding its prior policies of prohibiting loan servicers from responding directly to information requests from third parties including state attorneys general, state student loan ombudsmen, and other regulators and of requiring that such requests be sent to the Department instead. This decision, as expected, has made it easier for federal, state, or local authorities to request information from student loan servicers and as a result, OCFR examiners experience improved access to information that they need assisting the Ombudsman to resolve student loan complaints and investigations.

- ***Unified Servicing and Data Solution (formerly NextGen System)***

In May 2022, ED's Office of Federal Student Aid (FSA) commenced the process of soliciting student loan servicers to participate in the next phase of the implementation of a new technology platform. Originally called the Next Generation Financial Services Environment ("NextGen") initiative, the system is now known as the Unified Servicing and Data Solution (USDS). This system involves the eventual transition from multiple student loan servicers operating on multiple different technology platforms to one centralized servicing platform. ED expects that this next phase will result in modernization of the technology and operational infrastructure of the federal financial aid system that the Department currently uses. Student loan servicers who are chosen to participate in this phase of USDS will be required to co-brand their borrower facing communications with ED and provide authentication through the FSA ID, which will provide a single sign-on for borrowers. ED expects that the changes will result in an improved customer experience, including improvements to its online presence and outreach capabilities. ED plans to award contracts in the last quarter of 2022 to student loan servicers with a goal of starting the process in December 2023. ED expects that by December 2028, it will move full account management, branding, and repayment away from current student loan servicers. During the transition time the Department expects to build out its servicing data repository to improve the account transfer process and enhance cybersecurity. The Ombudsman will continue to monitor and report on any other USDS developments.

- ***Cancellation of Student Loan Servicing Contracts by Servicers***

Unlike 2020 and 2021, there were no further cancellations of student loan service contracts by federal student loan servicers this year. FedLoan Servicing, who had serviced 8.5 million borrowers and signed a one-year contract extension with ED in November of 2021 is expected to close out its contract with Department, as scheduled, by December of 2022 at the latest. The extension was initially implemented to assist with an orderly transition of borrowers to other servicers (EdFinancial Services, MOHELA, NelNet and Maximus, Inc.). ED indicated via statewide student loan ombudsman conference calls that that most of the account transfers have been nearly completed and to the date of their reporting, there have been few issues reported by borrowers regarding problems with their accounts. There is concern that as borrowers return to repayment next year and begin to pay closer attention to their loan accounts, they will identify problems with their accounts that were previously either unknown, overlooked, or ignored.

- ***Student Loan Forgiveness***

The lack of student loan forgiveness by ED in past years, particularly as might be available under the Agency's Borrower's Defense regulations and the Public Service Loan Forgiveness program, was finally addressed by the Agency in a series of announcements and actions throughout this and last year. These announcements and other actions discussed below are expected to bring further clarity, and in some cases, settle certain issues as well as provide financial relief to borrowers.

- ***Borrower's Defense Regulations***

Following the collapse of Corinthian Colleges in the mid 2010's – a predatory, for-profit chain of colleges that left tens of thousands of students across the U.S. in need of debt relief, ED was required, by Congressional mandate (via the Higher Education Act), to issue "borrower defense" regulations that would provide (a) critical protections for student-borrowers who had been misled or defrauded by predatory schools, and (b) an efficient pathway to get relief from their federal student loans. The mandate also required that ED issue regulations that would also ensure that financially troubled schools provide financial protection to the government to ensure that in the event of their failure, taxpayers would not be left financially responsible.

In 2016 ED issued the mandated regulations, but by mid-2017, two weeks before they were to go into effect, had delayed their introduction. A coalition of 20 attorneys general, including Maryland's Attorney General, sued ED over the delay and in 2018, a judge in the U.S. District Court for the District of Columbia found the delay unlawful and ordered the 2016 borrower defense regulations to go into effect. In November 2019, ED issued alternative, replacement borrower defense regulations that went into effect in July 2020. Consumer advocates and some states' attorneys general believed that the alternative regulations put the interests of predatory schools ahead of student protections and created a process designed to thwart relief for defrauded students and shield predatory schools from being held accountable.

In July 2020, Maryland’s Attorney General joined a coalition of 23 attorneys general and filed a lawsuit in the U.S. District Court for the Northern District of California against ED ([*People of the State of California v. U.S. Dept. of Education*](#)) challenging their action to replace the 2016 “borrower defense” regulations. The filing argued that the issuance of the new regulations violated the Administrative Procedure Act (APA) and asked the court to vacate them. The outcome of the lawsuit will impact approximately 170,000 Borrower Defense applications many of whom had already been denied relief by ED which issued blanket denials without specific explanations for their rejection of the application. Maryland’s Attorney General estimates that there are 1,900 Maryland student loan borrowers who were impacted by Corinthian and other for-profit schools and who would benefit by having their applications accepted by ED. In February of this year, the parties mutually agreed to a joint stay of the hearing until Nov 30, 2022, with a joint status report due on Nov 23, 2022, to see if the new borrower defense rules proposed by ED in October of this year (see paragraph below) would moot the claim and resolve the case.

In July 2021, Maryland’s Attorney General joined the same coalition of 23 attorneys general in filing an amicus brief supporting the New York Legal Assistance Group’s (NYLAG) lawsuit against ED ([*New York Legal Assistance Group v. U.S. Dept. of Education*](#)) challenging the actions taken by the Agency that, according to the plaintiffs, unlawfully repealed and replaced federal borrower defense regulations. On August 15th of this year, the parties mutually agreed to hold the appeal in abeyance until Dec 9th with a joint status report due on Nov 14th. On Nov 14th, a further abeyance was mutually filed by the parties to determine if ED’s new proposed borrower defense rules (see below) would moot NYLAG’s claim. The court approved the abeyance which will last until July 2023.

In March 2021, ED reversed its prior decision and announced that it would accept borrower defense loan forgiveness applications. Later in the year in July, ED announced the approval of over 1,800 borrower defense claims for borrowers who attended three institutions: Westwood College, Marinello Schools of Beauty, and the Court Reporting Institute. This was the first time since 2017 that the Department approved borrower defense claims for students who attended institutions besides Corinthian Colleges, ITT Technical Institute, and American Career Institute. The borrowers are expected to receive 100% loan discharges, resulting in approximately \$55.6 million in relief at that time. In September 2022, ED announced that it would automatically cancel a further \$10 billion in federal student loan debt for a further 875,000 borrowers who attended the aforementioned colleges, as well as borrowers who attended DeVry University, Minnesota School of Business, The Court Reporting Institute, Kaplan Career Institute and Globe University, Inc.

In October 2022, ED released, what it described as a “final” regulation regarding borrower’s defense. The regulation establishes a framework for borrowers to raise a defense to repayment if their institution misleads or manipulates them. This includes the ability for ED to decide claims individually or as a group, which can be formed by the Secretary of ED or in response to a request from a state entity, such as an attorney general, or a nonprofit legal assistance organization. Claims

may be based on one of five categories of actionable circumstances: substantial misrepresentation, substantial omission of fact, breach of contract, aggressive and deceptive recruitment, or judgments or final secretarial actions. The regulation will apply to all claims pending on or received on or after July 1, 2023.

The final regulation also includes the provision of full relief, a change from the proposed rule, which allowed for partial discharges. Approved claims require a conclusion, based upon a preponderance of the evidence, that the institution committed an act or omission which caused the borrower detriment of such a nature and degree that it warrants full relief. The regulation also lays out a process for ED to pursue institutions for the cost of approved claims. For loans issued prior to July 1, 2023, ED may pursue recoupment if the claims would have been approved under the borrower defense standards in place at the time the loan was issued. For discharges of loans issued before that date, institutions will only face recoupment if those claims would have been approved under the regulatory standards in place at the time the loans were issued. The regulation also allows borrowers to take their case to court by preventing institutions that participate in the federal Direct Loan program from requiring borrowers to engage in pre-dispute arbitration or sign class action waivers. ED expects that this final regulation will create an easier path for borrowers whose loans were falsely certified to receive a discharge. More information on the ED's final regulations on borrower's defense as well as other regulations for ED's targeted debt relief programs, which become effective in July 2023, can be found at this link:

https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/fact-sheet-final-rule-package.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

The Ombudsman will continue to monitor and report on any developments regarding borrower defense matters.

- *Public Service Loan Forgiveness*

The Public Service Loan Forgiveness (PSLF) program allows borrowers who pay their student loans while working for 10 years in qualifying public service jobs (federal, state and local government, teachers, law enforcement officers, members of the military, etc.) to have the remainder of their federal direct student loans forgiven. As reported in prior Ombudsman Annual Reports, some PSLF borrowers became eligible for forgiveness in October 2017. Until last year only 845 (1%) of the 90,962 borrowers that had applied for loan discharge through the PSLF program had their debt forgiven. In 2019, ED acknowledged a General Accounting Office report (GAO 19-595) that over 99% of borrowers who had applied for forgiveness had not been accepted.

Responding to those criticisms, ED in October of 2021 announced an expansion of the PSLF program called the "Limited PSLF Waiver" ("Limited"). In effect, the Agency stated that it would temporarily relax some of the original PSLF requirements allowing borrowers who accidentally

made payments on non-Direct federal student loans (i.e., Perkins or FFEL loans) or under non-income driven repayment plans to receive credit towards their PSFL obligations. Additionally, borrowers would get credit for previous payments that were rejected due to technical reasons (e.g., late payments, incorrect payment amounts that were off by nominal dollar and cent amounts). Even under the relaxed standards announced by ED, borrowers would still have to prove, by certification, that they worked for 10 years for a qualifying public service institution. As a result of this change, ED confirmed in October of this year that approximately 236,000 borrowers had received over \$14 billion in debt relief since the launch of the waiver which ended on October 31, 2022. In addition to PSLF and other borrower defense student loan forgiveness, during the year the President also announced the cancellation of approximately \$9.0 billion in student loan debt for borrowers with permanent disabilities over the last two years. Combined, ED has provided over \$38 billion in relief to borrowers over the last two years. ED also announced permanent improvements to the PSLF program that will be codified in final regulations. These improvements, which incorporate many elements of the PSLF waiver, include:

- Allowing borrowers to obtain credit for late, partial, and lump sum payments if the borrower also certifies qualifying employment.
- Awarding credit for certain months in deferment or forbearance, such as those tied to military service or deferments for economic hardship or cancer treatment if the borrower also certifies qualifying employment.

The Ombudsman will continue to monitor and report on any developments with the PSLF program and notify Maryland borrowers of the ongoing developments.

- ***One Time \$10,000 or \$20,000 Student Loan Debt Cancellation***

As discussed in last year's report, President Biden, after indicating support during his presidential campaign and assessing a requested legal review by ED, announced in August 2022, a one-time program to cancel \$10,000 in federal student loan debt for income-eligible borrowers and \$20,000 for income-eligible borrowers who had previously received a Pell Grant. Individuals with incomes under \$125,000 or those filing a joint return or as head of household with an income under \$250,000 qualify. Relief is capped at the amount of the loan balance, so that the cancellation amount will never exceed the amount due on the loan. All relief will be provided as a reduction of a borrower's loan balance and if the balance is under \$10,000 or \$20,000 as applicable, the loan will be fully discharged. If the loan amount exceeds the cancellation amount, then the loan balance will be reduced. ED also announced that it will re-amortize those loans that are reduced through this plan, which is expected to reduce many borrowers' monthly repayment amounts.

ED estimates that eight million borrowers may be eligible to receive relief automatically because relevant income data is already available to the Department (based on recent Free Applications for Federal Student Aid (FAFSA) or income-driven repayment applications). Borrowers could apply for discharge via an on-line or paper application at ED's FSA website which was launched on

October 17th of this year (<https://studentaid.gov/debt-relief/application>). As of November 2022, ED reported that over 26 million borrowers had applied to be considered for forgiveness and 16 million of them have already been approved. Borrowers were originally allowed to apply until the end of 2023 although ED had encouraged borrowers to apply by November 15, 2022, if they wanted their loans to be cancelled or reduced before the end of the payment pause on June 30, 2023. The relief only applied to those with Federal Direct Loans or other loans eligible for the payment pause. ED estimates that there are 747,100 Maryland borrowers that are eligible for debt relief, 419,400 of which will benefit from Pell Grant loan cancellations.

In response to this announcement six states (Missouri, Arkansas, Kansas, South Carolina, Nebraska and Iowa) and the Missouri Higher Education Loan Authority (MOHELA), a current student loan servicer, filed, in October 2022, a federal lawsuit challenging the legality of the policy arguing that student loan servicers would be financially harmed by the decision.

After initially announcing that borrowers with Perkins loans and Federal Family Education Loans (FFEL) that are not held by ED would be eligible, ED reversed that decision and stated that only borrowers who had already successfully consolidated their loans into a Direct Consolidation Loan under the limited Public Service Loan Forgiveness waiver program introduced by ED last year, would be eligible. ED stated that although about 4 million borrowers still had Perkins and FFEL loans, they estimated that only 700,000 borrowers would be affected by the decision to scale back those applicants. Since ED made the announcement on the same day that the six states announced they would sue, it is believed that this decision was made by ED to weaken the six state's lawsuit. In late October, a Missouri federal judge dismissed the lawsuit on the basis that the plaintiffs had no legal standing. The plaintiffs then appealed that decision to the 8th Circuit Court of Appeals.

On November 10th, a U.S. District Judge in Texas, in a suit brought by the Job Creator's Network Foundation on behalf of two borrowers who did not qualify for debt relief, ruled that the debt relief program was illegal and that the Secretary of ED did not have the power to discharge the debt under the 2003 Heroes Act. The Biden Administration and ED plan to appeal the decision to the 5th Circuit Court of Appeals, has temporarily put a hold on the program, and is not accepting any more applications or granting loan forgiveness until further notice. The Ombudsman expects other parties to challenge the President's decision and will follow those developments should they arise.

- *Fresh Start Initiative*

On April 6, 2022, ED announced the Fresh Start Initiative which seeks to eliminate the negative effects of default for borrowers with defaulted federal student loans. Under this initiative, federal student loan borrowers whose loans were delinquent or in default prior to the pandemic will be returned to a "Current" status once the CARES Act expires on June 30, 2023, and those delinquencies and defaults will be removed from their credit history. The initiative will also end wage garnishment, income tax refund offset, and the offset of Social Security benefit payments on eligible loans. Removing student loan delinquency and default from a borrower's credit history

should help to improve borrower's credit scores. In addition, it should help these borrowers qualify for new credit and possibly reduce the interest rates they pay on other types of debt, such as credit cards, auto loans and mortgages. Eligible borrowers include all borrowers whose loans were eligible for the COVID 19 payment pause and interest waiver. This includes all loans in the Direct Loan program, Federal Family Education Loan (FFEL) loans made under the Ensuring Continued Access to Student Loans Act (ECASLA) in 2008-09 and 2009-10, and defaulted FFEL loans held by a guarantee agency on behalf of the federal government. ED expects that approximately 10 million borrowers will benefit from the Fresh Start Program, including more than 7 million borrowers whose loans were in default and about 3 million borrowers whose loans were delinquent. ED has indicated that the program will probably be automatic, so borrowers will not need to do anything to qualify. The initiative will continue for one year after its January 1, 2023, start date. The Ombudsman intends to conduct outreach efforts in 2023 independently and in collaboration with ED to inform Maryland borrowers of the opportunities provided by this initiative and to avoid being taken advantage of by scammers. Further details on the initiative can be found at the following link: <https://fsapartners.ed.gov/sites/default/files/2022-08/FreshStartFactSheet.pdf>

Maryland Activity

During its 2022 session, Maryland's General Assembly passed, and Governor Larry Hogan signed into law, [House Bill 128](#) (618 Md. Laws 2022). The new law, which took effect on October 1, 2022, requires debt settlement service providers engaged in the business of providing student education debt relief to Maryland consumers to state on their service agreement documents and in their advertising that their company is not affiliated with the U.S. Department of Education and is not a lender. Responsive changes to advertising and forms should have been made.

Additionally, the law prohibits debt settlement service providers engaged in student education loan debt relief from advising (either expressly or by implication) student loan borrowers to cease making scheduled loan payments to, or to cease communicating with, the borrower's student loan servicer; and further prohibits the provider from accessing or obtaining a borrower's student aid information in violation of federal law.

Violation of the Maryland Debt Settlement Services Act, and hence the law's new provisions, will be considered as an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA) and be subject to MCPA's civil and criminal penalty provisions. The Ombudsman will monitor student education debt relief related complaints and will refer any matter that may be deemed as abusive, unfair, deceptive, or fraudulent to the Commissioner of Financial Regulation for further investigation and potential civil enforcement or criminal prosecution. The Ombudsman issued an advisory and notified the State's universities and colleges alumni directors, via email blasts in the 3rd quarter of the year, about these developments to inform Maryland borrowers of these changes.

In January 2022, the Maryland Higher Education Commission (MHEC) announced that it awarded \$9 million in student loan debt relief tax credits to 9,155 state residents with student loan debt for the 2021 tax year. Over the last five years' \$41 million in student loan debt relief tax credits have been issued to over 40,600 Maryland residents. Applications for the tax credits may be submitted from July 1st to September 15th of each year.

- *Navient Settlement*

In January 2022, 39 states including Maryland, announced that Navient Corporation and its subsidiaries (Navient Solutions, LLC, Pioneer Credit Recovery, Inc., and General Revenue Corporation -collectively referred to as Navient) agreed to provide relief totaling \$1.85 billion to resolve allegations of unfair and deceptive student loan servicing practices and abuses in originating predatory student loans. This settlement resolved claims that since 2009 Navient steered struggling student loan borrowers into costly long-term forbearances instead of counseling them about the benefits of more affordable income-driven repayment plans.

Under the terms of the settlement, Navient must cancel the remaining balance on more than \$1.7 billion in subprime private student loans owed by approximately 66,000 borrowers nationwide. In addition, a total of \$95 million in restitution payments would be distributed automatically, via check, by the settlement administrator, Rust Consulting, to approximately 350,000 federal loan borrowers who were placed in certain types of long-term forbearances. It is estimated that more than 1,100 Marylanders will be relieved from having to pay more than \$34 million in student loan debt and 11,836 Marylanders will also be receiving restitution checks totaling \$3,155,124.

Navient was required to send consumers receiving private-loan debt relief under the settlement a notice explaining their rights while Federal loan borrowers who are eligible for a restitution payment would be receiving a postcard in the mail from the settlement administrator. Federal loan borrowers who qualified for relief under this settlement were not required to take any action except update or create their FSA studentaid.gov account to ensure that ED had their most up to date address.

The settlement included an injunction that required Navient to explain the benefits of income driven repayment plans and to offer to estimate income-driven payment amounts before placing borrowers into optional forbearances. Additionally, Navient was required to train specialists who would advise distressed borrowers concerning alternative repayment options and counsel public service workers concerning PSLF and related programs and prohibited compensating customer service agents in a manner that incentivized them to minimize the time they spent counseling borrowers.

Finally, the settlement also required Navient to notify borrowers about ED's PSLF limited waiver opportunity provided that they consolidate into the Direct Loan Program and file employment certifications by the October 31, 2022, deadline as required by the limited waiver.

The other states involved in the settlement included Arizona, Arkansas, California, Colorado, Connecticut, the District of Columbia, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Washington, and Wisconsin. More details about the settlement and an FAQ prepared by the Maryland Attorney General's Office can be obtained at the following links:

<https://www.navientagsettlement.com/Home/portalid/0>

https://www.marylandattorneygeneral.gov/news%20documents/011322_FAQ.pdf

- ***Impact of the Potential One Time Student Loan Debt Cancellation on Maryland Individual Income Taxes***

On October 26, 2022, the Maryland Comptroller issued a tax alert clarifying the State's position on the one-time potential federal student loan debt cancellation. The Comptroller indicated that Maryland citizens who might benefit from the one-time \$10,000 and \$20,000 cancellation would not be subjected to state taxes. More information on the alert can be found [here](#).

Other State Activity

California, Colorado, Connecticut, the District of Columbia, Illinois, Maine, New Jersey, New York and Washington have established various provisions for registering or licensing student loan servicers. Additionally, student loan ombudsman positions have been established in California, Colorado, Connecticut, the District of Columbia, Illinois, Maine, Massachusetts, New Jersey, Nevada, Oregon, Virginia, and Washington (which created a position of "advocate" with authority similar to other states' ombudsmen). The Ombudsman continues to communicate on an ongoing basis throughout the year with many of the various states' ombudspersons to stay abreast of potential developments and initiatives, particularly those that have occurred at ED, and to exchange advice and information.

In June 2022, Louisiana, following similar measures taken the previous year in New Jersey, passed two bills, House Bill 610 which establishes protections for student loan borrowers and House Bill 789 which requires that private student loan lenders and servicers both register with the State's Commissioner of Financial Institutions and submit an annual report. The Ombudsman is evaluating the implications of this law and will report on any developments.

Historically, the U.S. Bankruptcy Code and related case law made the discharge of student loan debt difficult. However, over the last few years a number of courts throughout the United States have eased the standards used to determine whether student loan debt can be discharged in bankruptcy. A court decision regarding student loan debt discharge that was discussed in previous

Annual Reports, [Kevin Jared Rosenberg v. New York State Higher Education Services et. al.](#), remains unsettled. In *Rosenberg*, the U.S. Bankruptcy Court in Poughkeepsie, N.Y., ruled that over \$221,000 of student loan debt was dischargeable under Chapter 7 bankruptcy laws despite the fact that the borrower was not disabled or unemployable. The court ruled that the case met the legal standards of the *Brunner* test, which requires borrowers seeking bankruptcy relief from their student debt to show they cannot maintain a minimal standard of living, their circumstances are likely to continue for a significant period, and they have made good-faith efforts at repayment. The ruling rejected much of the case law that had historically made the discharge of student loan debt extremely difficult and it may, if ultimately upheld, signify a significant development in making student loan debt easier to discharge. The loan servicer appealed the Court's decision and on appeal, the U.S. District Court for the Southern District of New York, in September 2021, remanded the case to the Bankruptcy Court for a new hearing on the grounds that neither party had sustained their burden of proof. In addition, in 2022, the plaintiff, Mr. Rosenberg, successfully filed a motion to strike the testimony of an expert witness representing the defendant as well as a financial report prepared by that expert witness. The defendant is appealing the decision which will probably add even more delays to the process since opinions of the Bankruptcy court are appealed to the District Court, and in turn to the Circuit and Supreme Courts, the case may still have a long process to go through before a final decision is reached.

There were developments in two other student loan related court decisions, in Texas and New York respectively, both of which were discussed in last year's annual report. In [Crocker v. Navient Solutions \(5th Circuit Court of Appeals\)](#) (Crocker) and [Hilal K. Homaidan v. Sallie Mae / Navient \(2nd Circuit Court of Appeals\)](#) (Homaidan), both courts ruled last year that student loan debt could be discharged in bankruptcy. In Texas, the U.S. Court of Appeals for the 5th Circuit affirmed that private educational loans are not statutorily excepted from discharge, absent undue hardship (in other words, it held that such loans can be discharged like other debt). In New York, the U.S. Court of Appeals for the 2nd Circuit ruled that private student loans are not explicitly exempt from a debtor's Chapter 7 bankruptcy discharge.

In 2022, the *Crocker* case, following remand from the Circuit Court, the Bankruptcy Court for the Southern District of Texas approved the final settlement for the class action suit against Navient and dismissed the case. Members of the class include all individuals who had their student loans discharged but from whom Navient continued to demand payment. The settlement requires Navient to cease collection on all discharged debts and to pay restitution in the amount of their pro rata share of a pool of \$1.9 to \$2 Million for any payments class members made to Navient after their loans were discharged.

Meanwhile, in 2022, the *Homaidan* Bankruptcy case, the plaintiff filed a motion for a temporary restraining order (TRO) enjoining the defendant from attempting to collect on their student loans. After the order was granted, Navient appeal was denied by the Eastern District Court of New York. The TRO was extended to October 14, 2022, and on October 17, 2022, the bankruptcy

court issued a preliminary injunction against Navient's further collection of the student loans. Navient, in response, on October 18, 2022, filed an emergency motion to appeal the injunction. The Ombudsman is still evaluating the implications of the verdict of the *Crocker* case and the potential outcome of the *Homaidan* case and the evolving bankruptcy laws with respect to Maryland law and will continue to monitor and report on developments in this area.

PROCEDURES FOR PROCESSING BORROWERS' COMPLAINTS AND STUDENT LOAN SERVICER DESIGNEE INFORMATION

The Ombudsman's dedicated website serves a number of functions for both borrowers and student loan servicers. Both parties can access their own dedicated pages via separate portals.

Borrowers

- 1) A resource page provides information to borrowers on how the Ombudsman can assist as well as general information and advice to help them understand their rights.
- 2) Borrowers can contact the Ombudsman directly through a dedicated phone line or email.
- 3) Borrowers can file a complaint by filling out a Student Loan Ombudsman Complaint Form and submitting it to the Ombudsman via electronic form, email, mail or fax along with their supporting documentation.
- 4) The Ombudsman and Financial Examiners will review all filed complaints.
- 5) Student loan servicers will be contacted by the Ombudsman to investigate the Borrower's complaint.
- 6) Customers will receive status updates, be asked to provide additional information, and be informed of student loan servicer responses. Letters acknowledging receipt of the complaint and a final findings letter will be issued to Borrowers.

Student Loan Servicers

- 1) A resource page provides information, including an informational bulletin, to student loan servicers explaining how to comply with the Act.
- 2) Student loan servicers can contact the Ombudsman directly via phone or email.
- 3) Student loan servicers can complete their designee form and submit it electronically, or via email or mail.

- 4) Completed designee forms are entered into the OFCR database for use by the Ombudsman and Financial Examiners.
- 5) Student loan servicers receive confirmation of their filing via email acknowledgement.

STUDENT LOAN OMBUDSMAN EDUCATION AND OUTREACH

The Ombudsman undertook a variety of activities since the position was established in 2018 to inform and educate Maryland student loan borrowers of their rights and responsibilities under State law as well as explain and identify additional state and federal resources that were available. Stakeholder outreach with non-profit financial education service providers was also undertaken to provide education and training on the authority of the Ombudsman and to hear directly from those organizations about their clients' experiences with student loan servicer businesses in Maryland. These initiatives included:

- 1) Completion of the Ombudsman's brochure both in collateral form and electronically on-line for distribution to stakeholders, strategic partners and the public. The brochure can be found at the following link:
www.labor.maryland.gov/finance/consumers/frslombudbrochure.pdf
- 2) Completion and publication in conjunction with the Commissioner, the Ombudsman's student loan borrower education course called the "Student Loan Educational Toolkit" on the Ombudsman's resource web page in October 2019. Since it was published, the course has been viewed 1,093 times, averaging over 43 views per month. The course can be found at the following link:
www.labor.maryland.gov/finance/consumers/frslombudcurriculum.pdf
- 3) An upgrade of the Student Loan Servicer Designee form so that it can be submitted electronically via the Ombudsman web site. The upgraded form can be found at the following link:
<https://iproduct.llr.state.md.us/form/FinRegStudentLoan>
- 4) Identification of and engagement with important strategic partners and stakeholder groups, as well as the public, through seminars, presentations and attendance at financial education symposiums and conferences, both in person and virtually (particularly during the COVID-19 pandemic), to increase awareness of the ombudsman role, services and responsibilities. Partners include not for profit financial educational practitioners such as: CASH Campaign of Maryland, the Maryland Volunteer Lawyers Service, the Maryland Center for Collegiate Financial Wellness, National Coalition of 100 Black Women and CAFÉ Montgomery. The Ombudsman is also a member of the Maryland Consumer Rights Coalition's (now known as Economic Action Maryland) Student Debt Coalition working group and attended

meetings of the General Assembly's Financial Education & Capability Commission. These events also provided an opportunity to solicit feedback from those organizations about their clients' experiences with student loan servicer businesses in Maryland. In addition, in January of this year, the Ombudsman was interviewed on Baltimore's public radio station, WYPR, about his activities. It was another opportunity to publicize the Office's work on behalf of Maryland consumers.

- 5) Attendance, in conjunction with the Commissioner, of "Listening Sessions with the Commissioner" at different locations throughout the State and virtually during pandemic restricted times. The sessions brought the Commissioner and senior Office staff together with regional stakeholder groups to exchange information and discuss consumer or financial trends in Maryland. The role, authority, and services of the Ombudsman were explained to the attendees at these listening events.
- 6) Issuance of numerous advisories to student loan borrowers related to important topics and changes that impacted them including changes made to federal student loans due to the COVID-19 pandemic, federal student loan account transfers and student loan scams. In addition, an advisory was issued to changes to Maryland law ([House Bill 128](#)) regarding student loan debt relief and settlement. The Ombudsman also plans in FY 2023 to notify borrowers of the sunset of the CARES Act which ends on June 30, 2023.
- 7) Publication of the BOR for Maryland residents that clearly recites the rights of student loan borrowers who are repaying student loans. The BOR succinctly describes the protections to which borrowers are entitled as well as the obligations of student loan servicers. Protections cited in the BOR also includes standards that student loan servicers must meet related to responsiveness, payment allocation, record retention, and reporting to credit bureaus. A PDF copy of the BOR can be accessed at the following link:

www.labor.maryland.gov/finance/consumers/frslbillofrights.pdf

The BOR webpage can be found at this link on the Office website:

www.labor.maryland.gov/finance/consumers/frslbillofrights.shtml

The Ombudsman promoted the BOR via email blasts to consumer stakeholder groups as well as through social media posts on the Maryland Department of Labor's Facebook page. In addition, the Ombudsman, in collaboration with the University of Maryland Alumni Association, included links and information to the BOR and Ombudsman's web pages on the Alumni Association's digital "Gold Digest" and "MD Digest" newsletters which were published in the 4th quarter of 2020. The Ombudsman will continue with education and outreach efforts to inform borrowers of the changes.

Response to change announcements by the U.S. Department of Education

The Ombudsman remains in regular contact with his counterparts in other states to stay apprised of developments at ED and to participate in discussions with student loan servicers. As the year ends, the Ombudsman will continue to monitor and to provide timely content and updates to help student loan borrowers protect and manage their finances in the coming year. Going forward, the Ombudsman the volume of inquiries may increase if federal relief measures expire and borrowers (a) are required to begin repayment of their student loans, (b) experience transfer errors, and (c) continue to be denied loan forgiveness.

ANALYSIS OF STUDENT LOAN INQUIRIES

In the 51 months since the Ombudsman's position was established 82 student loan servicers have provided their designee information and 10 Private Student Loan Servicers are licensed as debt collectors. Over the last four years the Office has received 96 individual inquiries from student loan borrowers from all parts of the State. This year, inquiries increased by 418% from last year (11 to 46). The increase is similar in rate to the increase in inquiries experienced by the CFPB and reflects the overall increase in complaints to the CFPB at a national level. The Ombudsman believes that demand for assistance increased as borrowers became aware of the limited waiver PSLF program, the once-off student loan forgiveness announced by the Biden Administration, the Navient settlement, and they began engaging with their servicers and ED in order to apply for those developments. Thus, the volume of inquiries from borrowers that had been temporarily dampened over the last few years due to the financial relief provided by the CARES Act, increased, as anticipated by the Ombudsman in last year's report, as borrowers applied for federal program forgiveness and prepared to return to payment in 2023.

All this year's inquiries were related to student loan servicers and there were no complaints related to debt collection businesses or to educational institutions. 38 of the inquiries received have been resolved while eight are still under investigation. Five inquiries from borrowers who requested to be included in the Navient Settlement were referred to the Attorney General's Office.

As was the case in prior years, the nature of the complaints from borrowers continued to vary from purported difficulty with the student loan servicer (misapplied payments, billing errors, inaccurate interest rate calculations, principal, and interest rate errors) to difficulty communicating with the student loan servicer, as well as allegedly inappropriate collection activities, and finally issues with credit reports. Overall, to date, the Ombudsman did not find fault with the student loan servicers' actions in handling the inquiries from the complaining student loan borrowers.

78% (36) of the inquiries from complainants this year were directed at six student loan servicers: (a) Navient Solutions, LLC (13), (b) Pennsylvania Higher Education Assistance Agency (PHEAA and its affiliated entities, FedLoan and American Education Services) (10), (c) Higher Education

Loan Authority of Missouri (aka MOHELA) (7) and (d) Maximus (6). This level is not surprising given that these six servicers are also the largest companies in the industry.

Over 80% (37) of all inquiries were from Montgomery (13), Baltimore County (7), Frederick (5), followed by Baltimore City (4) and Anne Arundel (4) and Prince George's (4) Counties. This representation is consistent with last year's totals and is not unexpected as these six districts contain the highest population densities in the State.

RECOMMENDATIONS

Due to the continued paucity of complaints, the Ombudsman has still not yet received sufficient complaint data to evaluate the industry and the effects of the 2019 HB 594/SB670 or to make any meaningful conclusions about statutory or regulatory changes that would help student loan borrowers resolve problems or concerns or help ensure that the student education loan servicing industry is fair, transparent, and equitable.

The Ombudsman established a mechanism for student loan servicers to name contact designees and the industry reacted positively to that requirement as evidenced by the 81 points of contact obtained by the Ombudsman since the position was established over four years ago. In light of the fact that the Ombudsman has collected contact information from all known servicers of student loans and has not experienced any difficulty in communicating with such servicers, the Ombudsman is satisfied that servicers are being responsive at this time. As anticipated last year, President Biden's election and the installation of new leadership at ED, the CFPB, and other federal agencies has brought about changes in the field of student loan servicing that have and will benefit student loan borrowers going forward. Many of these changes and decisions began in the last quarter of 2021 and have continued throughout this year although the main changes (loan forgiveness, return to repayment) have yet to take place and are not expected to do so until next year which makes it difficult to evaluate the results. Of particular concern next year are: (a) the more than 25 million borrowers, particularly those that are currently in forbearance status, that will be required to begin making payments by no later than June 30, 2023; (b) the transfer between loan servicers of over 16 million student loan accounts over the last year; (c) the effectiveness of the proposed regulatory changes by ED to speed up the public student loan forgiveness process; (d) the continued uncertainty around the \$10,000 and \$20,000 once-off student loan forgiveness partially launched by ED and now on hold; (e) the potential for an increase in student loan-related scams; and (f) the impact that all of the changes will have on borrowers' credit scores as because existing credit scoring models are not built to account for such systemic changes.

The Ombudsman is unable to estimate the volume of inquiries that can be expected next year as the CARES Act forbearance expiration has been extended until June 2023 and the administration's loan forgiveness plans have been challenged in court. However, if and when borrowers do return to repayment, the number of inquiries is expected to increase. Notwithstanding the status of the

repayment rules, the Ombudsman expects a greater number of Maryland student loan borrower complaints to migrate to the CFPB as it resumes a more robust role in handling consumer complaints and advocating for borrowers at a federal level.

As the CFPB and the states obtain additional data, the Ombudsman can utilize the OCFR's data analysis capabilities with the expectation that the data derived from those inquiries may provide sufficient information for the Ombudsman to evaluate the status of the industry. The Ombudsman recommends allowing additional time to pass before any changes or additional requirements are imposed on the Office or the industry. Hence, the Ombudsman is not making any legislative recommendations in this Report and will wait to see how the changes announced and undertaken this year by the administration and ED affect the student loan servicing industry and whether they provide any benefits to student loan borrowers.

STEPS FOR THE UPCOMING YEAR

During the coming year, the Ombudsman will also continue to monitor developments at local, State, and Federal levels and will coordinate with the Office of the Attorney General, where appropriate, to protect the rights of borrowers. The Ombudsman expects over the next year to undertake greater outreach efforts with the State's university and college alumni associations to update them on ongoing policy changes at ED, particularly its "Fresh Start" initiative, as well as collaborate with ED on potential student loan scam activity in the state and promote the Office and the Maryland Student Loan Borrower's Bill of Rights.

In prior year's Annual Reports, the Ombudsman described various steps in the areas of (i) Education and Outreach, and (ii) Processes and Procedures that would be pursued in the upcoming year. The steps and actions taken during the past year as well as some of the additional steps that are expected to be taken in the upcoming year are described below.

Education and Outreach

- 1) Contact the state's university and community college alumni associations to collaborate on further outreach initiatives.

Status: Greater engagement with the State's university and community college alumni associations was limited again this year due to the extensions of the payment forbearances initially established under the CARES Act and, until the last half of this year, delayed actions by ED to overturn past policies, regulations, and decisions. However, the Ombudsman reviewed and updated his outreach data lists to ensure that contacts are kept up to date. In addition, the Ombudsman reached out via email to his alumni contacts in the last quarter to make them aware of potential scam activity related to recent federal student loan forgiveness announcement made by ED. In 2023, the Ombudsman will notify his

alumni contacts of the Ombudsman’s “Back to Repayment” brochure which will provide information for borrowers on how to prepare for repayment after June 30, 2023.

Action: In 2023, the Ombudsman plans to deepen engagement with the State’s university and community alumni associations in order to promote the Ombudsman’s activities and disseminate information about student loans and the servicing of student loans. The Ombudsman plans to invite members from both associations to a listening session to exchange information and discuss student loan issues and trends and solicit feedback on how the Ombudsman can help their respective alumni in Maryland.

- 2) Continue to identify appropriate stakeholders and strategic partners in an effort to promote the work of the Ombudsman and leverage their networks.

Status: In 2022, the Ombudsman identified two new strategic partners, the Maryland Center for Collegiate Financial Wellness and the National Coalition of 100 Black Women that he contacted and successfully collaborated with on a series of outreach activities during the year.

Action: The Ombudsman will continue to seek out opportunities to collaborate with appropriate new and existing partners over the coming year.

- 3) Continue to monitor and update the Ombudsman’s website when appropriate.

Status: The Ombudsman’s website pages were reviewed, and links and information were updated in the final quarter of this year.

Action: The Ombudsman’s website pages will be reviewed, and links and information will continue to be updated on an annual and, as needed, basis each year.

- 4) Create a dedicated webpage containing interactive educational modules that accompany the student loan educational curriculum.

Status: The Ombudsman with Office staff assistance created a dedicated web page with interactive educational modules to accompany the student loan educational curriculum.

Action: The Ombudsman will review the modules in the education program and update the modules in 2023 to reflect recent changes ED has made to its programs during this year, particularly those centered on student loan forgiveness.

- 5) Undertake outreach in 2023 to Maryland borrowers and stakeholders to increase awareness and educate them on ED’s “Fresh Start” initiative which seeks to provide a reset for federal loan borrowers and to warn them about potential scammers who may seek to take advantage of borrowers during this initiative.

Status: The Ombudsman, with assistance from Office staff, will create and explore outreach options and messaging in the 1st Quarter of 2023. The Ombudsman will also explore outreach collaboration opportunities with ED.

Action: The Ombudsman will begin outreach activities in FY2023.

- 6) Seek further opportunities to collaborate with ED and other states on issues of mutual interest, particularly on potential student loan scam activity in Maryland.

Status: The Ombudsman with assistance from Office staff will review data from ED on entities that may be acting illegally in the state. ED has indicated that it will provide the data in the last quarter of this year.

Action: The Ombudsman will review the data provided by ED and determine, with assistance from Office staff, next steps. The Ombudsman will continue to meet with other states' counterparts throughout the year.

Processes and Procedures

- 1) Continue to monitor and refine internal processes and procedures to improve efficiencies in service delivery to both borrowers and student loan servicers.

Status: The Financial Examiners who assist the Ombudsman continued using the State Examination System (SES) and have completed all required training to use the system. The Assistant Director of the Office's Consumer Services Unit still a member of the SES Consumer Complaints Subcommittee, the members of which will have significant input in both the development of, and the policies governing, new features and improvements in the SES system. Members of the Subcommittee will also make policy recommendations and provide feedback on system updates and improvements, as well as onboarding and training.

Action: The Office, including the Ombudsman, intends to explore other technology applications in an effort to continue to upgrade and enhance the current Office database and the SES system in 2023. The Ombudsman's plans will also be integrated into the Office's FY24 strategic plans.

- 2) Upgrade the Student Loan Servicer Designee Form so that it can be submitted electronically through the Ombudsman's website.

Status: The Student Loan Servicer Designee Form was upgraded to allow complaint data to be downloaded directly from the Ombudsman's web page to the Office's consumer complaint database. The optional paper complaint form remains available for servicers but did not require any updates.

- 3) Monitor student loan complaints and identify education debt relief related complaints and refer any matter that may be deemed as abusive, unfair, deceptive, or fraudulent to the

Commissioner of Financial Regulation for further investigation and potential civil enforcement or criminal prosecution.

Status: The Ombudsman this year notified relevant Office staff of the adoption of [House Bill 128](#) (618 Md. Laws 2022) and its requirements.

Action: In 2023, the Ombudsman will update his Policies and Procedures document to include processes and procedures that integrate the requirements of the new law.