



COMMISSIONER OF FINANCIAL REGULATION

INFORMATIONAL BULLETIN



September 28, 2018

(Updated November 2, 2018)

STUDENT LOAN OMBUDSMAN

The following is a notice to all servicers of student loan debt of residents of the State of Maryland. [The Financial Consumer Protection Act of 2018](#) (the “Ombudsman Act”) creates a Student Loan Ombudsman (“Ombudsman”) who is designated by the Commissioner of Financial Regulation (“Commissioner”). The Ombudsman Act is effective on October 1, 2018. The Ombudsman Act requires student loan servicers to provide the Ombudsman with the name, phone number, and e-mail address of the individual designated to represent the student loan servicer in communications with the Ombudsman. This bulletin is being issued in order to provide guidance to entities that will be expected to comply with the Ombudsman Act.

The following FAQs provide responses to common questions about the implementation of the Ombudsman Act, and the FAQs could change in response to questions from student loan servicers, student loan borrowers, and the public. The following FAQs are provided for informational purposes and intended to provide general guidance about the requirements of the law. The FAQs are not legal advice. Student loan servicers should contact their legal counsel for legal advice.

If you have questions or comments about these FAQs please contact studentloan.ombudsman@maryland.gov.

A. Applicability and Effective Date

1. When do student loan servicers have to start complying with the Ombudsman Act?

The Ombudsman Act becomes effective on October 1, 2018. Student loan servicers are expected to provide the Ombudsman with the identity of their designated contact person by no later than November 15, 2018.

2. Who is considered to be a student loan servicer?

A “student loan servicer” means a person, regardless of location, responsible for servicing a student education loan to a student loan borrower. A “student loan servicer” includes a trust entity performing or receiving the benefit of student loan servicing. (See Section 2 of Chapter

732 of the Acts of 2018, enacting Md. Code Ann., Fin. Inst. (“FI”) §2-104.1(a)(6) – *effective 10/1/2018.*)

3. What activities constitute servicing a student education loan?

“Servicing” means: (i) receiving scheduled periodic payments from a student loan borrower according to the terms of a student education loan; (ii) applying the payments according to the student education loan terms; and (iii) performing other administrative services. (See Section 2 of Chapter 732 of the Acts of 2018, enacting FI §2-104.1(a) (2) – *effective 10/1/018.*)

4. Does a Trust Entity or other Entity that doesn’t actively service a student education loan but receives the benefit of the student loan servicing need to provide the Ombudsman with the identity of their designated contact person?

Yes. Trust Entities or other Entities who do not actively service student education loans but benefit from student loan servicing will need to furnish designee and contact information to the Ombudsman. This requirement can be met by (a) identifying the student loan servicer who is actively servicing the loans; and (b) the identified servicer providing their designee’s contact information to the Ombudsman.

Trust Entities or other Entities who do not actively service student education loans but benefit from the student loan will be deemed in compliance if the student loan servicer that is actively servicing their loans identifies them as the owner of the loans and the identified servicer complies with the law by providing its designee and contact information to the Ombudsman.

5. Who is a student loan borrower?

A “student loan borrower” means: (i) a resident of Maryland who has received or agreed to pay a student education loan; or (ii) a resident who shares repayment responsibility with a resident described under item (i) of this paragraph. (See Section 2 of Chapter 732 and 731 of the Acts of 2018, enacting FI §2-104.1(a)(4) – *effective 10/1/2018.*)

6. What is a student education loan?

A “student education loan” means any loan, notwithstanding any election of law or designation of status in any contract, used for financing postsecondary education or other postsecondary school–related expenses. For the purposes of implementing the Ombudsman Act, and in order to provide guidance for the public, the Ombudsman considers the following types of loans to be student education loans:

- (I) A loan made, insured, or guaranteed under Title IV of the Higher Education Act of 1965; or
- (II) A loan, notwithstanding any election of law or designation of status, that is to a student loan borrower expressly for the purpose of financing tuition or fees due to a postsecondary educational institution; or
- (III) A loan, notwithstanding any election of law or designation of status, that is to a student loan borrower expressly and solely for the purpose of financing

postsecondary school-related educational expenses, regardless of whether the loan is provided by the educational institution that the student attends.

The Ombudsman does not consider the following types of loans to be a “student education loan”:

- (I) Any loan, line of credit or extension of credit made by an individual to a student loan borrower;
- (II) Lines of credit or open-end credit of any type unless they were established expressly and solely for the purpose of financing tuition or fees due to a postsecondary educational institution or for the express and sole purpose of financing postsecondary school-related educational expenses;
- (III) Any loan that is secured by real property, a dwelling, or by any type of vehicle, whether a motor vehicle or otherwise;
- (IV) Loans in which the covered educational institution is the creditor if:
 - (A) The term of the extension of credit is 90 days or less; or
 - (B) An interest rate will not be applied to the credit balance and the term of the extension of credit is one year or less, even if the credit is payable in more than four installments.

B. Required Actions

1. What actions are student loan servicers required to take?

The Ombudsman Act requires student loan servicers to designate an individual to represent the servicer in communications with the Ombudsman and to provide certain information about the designated individual (FI 2-104.1(b)(2) – *effective 10/1/2018*). Student loan servicers are expected to provide the Ombudsman with the identity of their designated contact person and related information by no later November 15, 2018. (*See FI §2-104.1(b)(2) – effective 10/1/2018.*)

2. How do student loan servicers make the required designation and provide related information?

Student loan servicers will provide the designation and required information to the Ombudsman by completing the Student Loan Servicer Designee Form on the Student Loan Servicers web page on the Commissioner’s website.

The Commissioner is in the process of creating policies and procedures for the operation of the Ombudsman program and will release details about the program, including the identity of the Ombudsman, on October 1, 2018.

3. How can the Ombudsman be contacted?

The e-mail address for the Ombudsman is studentloan.ombudsman@maryland.gov.

4. What are the Ombudsman’s duties regarding student loans?

The Ombudsman receives and processes complaints about student education loan servicing, including:

- (1) receiving and reviewing complaints from student loan borrowers;
- (2) attempting to resolve complaints including by collaborating with institutions of higher education, student loan servicers, and any other participants in student loan lending, such as the board of regents of the University System of Maryland and the Maryland Higher Education Commission; and
- (3) compiling and analyzing complaint data.

The Ombudsman, in consultation with the Commissioner, will also disseminate information about student education loans and servicing by:

- (1) helping student loan borrowers understand their rights and responsibilities under the terms of student education loans;
- (2) providing information to the public, state agencies, elected officials, and other individuals regarding student loan borrower problems and concerns; and
- (3) disseminating information about the availability of the Ombudsman to assist those with student loan servicing concerns, including disseminating the information to:
 - (i) student loan borrowers;
 - (ii) potential student loan borrowers;
 - (iii) state higher education institutions; and
 - (iv) student loan servicers.

The Ombudsman may refer any matter that is abusive, unfair, deceptive, or fraudulent to the Office of the Attorney General for civil enforcement or criminal prosecution.

5. What are the Ombudsman's other obligations?

The Ombudsman will:

- (i) analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies on student loan borrowers;
- (ii) disclose the complaint data it compiles and analyzes including:
 1. Noting any trends in the data; and
 2. Identifying the names of student loan servicers engaging in any abusive, unfair, deceptive, or fraudulent practices; and
- (iii) make recommendations regarding:
 1. Statutory and regulatory procedures to resolve student loan borrower problems and concerns; and

2. Necessary changes to state law to ensure that the student loan servicing industry is fair, transparent, and equitable, including whether the state should require licensing or registration of student loan servicers.
- (iv) on or before October 1, 2019, the Ombudsman, in consultation with the Commissioner, will establish a student loan borrower education course.

6. What are the Ombudsman's reporting requirements?

On or before January 1 of each year, the Ombudsman is required to provide annual reports of findings and recommendations to the Governor and General Assembly.

Questions about this Information Bulletin can be directed to Sean J. McEvoy, Assistant Commissioner for Policy and Consumer Services, at sean.mcevoy@maryland.gov or (410) 230-6185. Additional information is also available at: www.dllr.state.md.us/finance/industry/frslserv.shtml