

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, 2021

Presented to:

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

The Honorable Adrienne A. Jones
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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 added provisions 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 these 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 2021, student loan debt in the United States exceeded \$1.753 trillion, an increase of 3.2% over the same period in 2020. Approximately 91% (\$1.595 trillion) of that debt is federal debt financed by the U.S. Department of Education and the remaining 9% (\$158.0 billion) is

considered private or institutional debt. Over the past 13 years, the market for student loan debt has expanded by 192.1% from \$600 billion in 2007 to \$1.753 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 debt at graduation per student borrower has increased by 60.8% from \$18,000 in 2007 to \$28,950 in 2019³. Comparable figures for the class of 2020 were not available from The Institute for College Access and Success but other sources such as the Education Data Initiative report that this year the class of 2021 owed an average of over \$39,351 in student loan debt⁴. The Education Data Initiative further reports that nationally, the level of college seniors graduating from public or non-profit schools with student loan debt continued to exceed six in ten (65%).

State averages for student debt load at graduation range from a low of \$18,350 in Utah to a high of \$39,950 in New Hampshire. In Maryland, 55% (versus 53% last year and 55% in 2019) of students graduated with debt from attending a third level educational institution and on average, students graduated with \$30,461 in debt, an increase in 0.5% over the prior year and an increase of 10% over the last three years⁵. Maryland's students' debt level ranked 18th highest in the nation while the percentage of Maryland students graduating with debt (55%) ranked 28th highest in the nation.

As a result of those levels, student loan debt remains the second highest consumer debt category in the United States behind mortgage debt. It continues to be higher than both credit card debt and auto loans. The U.S. student loan delinquency (or default) rate over the three fiscal years (FY 2017-FY 2019) prior to the passage of the Coronavirus Aid, Relief, and Economic (CARES) Act of March 2020 had averaged approximately 11.2% (90+ days delinquent), and was normally higher than the delinquency rates for other types of household debt⁶. However, that default rate decreased reflecting the financial relief provided by the CARES Act.

¹ The Federal Reserve Bank of New York's Center for Microeconomic Data *Quarterly Report on Household Debt and Credit*, (3rd Quarter, November 2021) and

² G19 Consumer Credit Series. The Federal Reserve Bank of St. Louis, Student Loans Owned & Securitized, Outstanding, (3rd Quarter, November 2021)

³ The Institute for College Access and Success: 16th Annual Report on Student Debt and the Class of 2020 (November 2021)

⁴ Hanson, Melanie. "Student Loan Debt Statistics" EducationData.org, November 17, 2021

<https://educationdata.org/student-loan-debt-statistics>

⁵ The Federal Reserve Bank of New York's Center for Microeconomic Data *Quarterly Report on Household Debt and Credit*, (3rd Quarter, November 2021) and G19 Consumer Credit Series.

⁶ The Institute for College Access and Success: 16th Annual Report on Student Debt and the Class of 2020 (November 2021)

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 households⁷.

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 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, as described in the CFPB section on page 7, has reported in its Annual Reports on issues it identified relating to the servicing of student loans.

COVID-19 Impact and the CARES Act

The CARES Act provided federal student loan relief to student loan borrowers and it made the relief granted therein retroactive to the President's March 13, 2020 emergency declaration. The CARES Act and a subsequent Presidential executive order of August 8, 2020 extended the temporary suspension of payments ("forbearance") and a 0% interest period for most federal student loans until January 31, 2022 ("Period"). Other provisions of last year's CARES Act included provisions for the following:

- Suspended payments in Income Driven Repayment (IDR) plans during the Period would still count towards IDR forgiveness and would also be given credit toward Public Service Loan Forgiveness (PSLF) as if the borrower had made on time payments. The borrower would have to already have a Direct Loan, be in a qualified repayment plan and be working full-time for a qualifying employer.
- Borrowers who wanted to continue making payments, like those seeking PSLF or those enrolled in a repayment plan with a manageable monthly payment, could still do so and the full amount of their payment would be applied to the principal amount of their loan once all interest accrued prior to the March 13, 2020 announcement was paid.
- Suspension of collection actions and wage garnishments for the Period by the U.S. Department of Education including notification by letter to the borrower's employer's human resources department. In addition, any wages inadvertently garnished during the Period would be refunded.

⁷ The Federal Reserve Board, Student Loans, Access to Credit and Consumer Financial Behavior (June 2021)

- Student loan servicers were instructed to halt all proactive collection activities, including making phone calls to borrowers and issuing collection letters and billing statements.
- Borrowers with defaulted student loans would not have their federal tax refund or their Social Security payment (including disability benefit) withheld for the Period.

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. The Act, however, 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 and 5.7% in November of this year.

Expiration of the CARES Act

The CARES Act relief for student loans was extended several times in 2020 and this year by administrative action and as noted above, is set to expire on January 31, 2022. The Ombudsman anticipates a potentially significant increase in the number of complaints when over 23 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. ED estimates that there are more than 23 million Direct Loan borrowers with outstanding loans of about \$938 billion that are now in forbearance status, and more than 99% of these balances are in the special CARES Act forbearance. There is concern that many borrowers will struggle to repay their loans once the CARES Act protection expires.

Adding to this repayment challenge for ED and its servicers, is the announcement this year by three servicers, 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”) that they will no longer service federal student loans, requiring ED to develop plans to transfer these borrowers’ accounts to other servicers.

Borrowers whose loans are serviced by Granite State and FedLoan Servicing are currently in the process of being transferred to other servicers. Navient, through a contract novation, will transfer its federal student loan contract to Maximus, Inc. That means that Maximus will take over Navient’s servicing contract as a party to the contract and will continue to use the loan servicing system that Navient currently uses. The CFPB Ombudsman in his most recent annual report (October 2021) estimated that there will be an unprecedented transfer of more than 16 million

student loan accounts with a loan volume of over \$650 billion in principal balances over the final quarter of 2021 and throughout 2022. The Ombudsman expects that the bulk of the servicing transfers will not be completed before borrowers return to repayment status in January 2022 and anticipates a significant increase in complaints due to past problems that borrowers experienced with servicers during similar past account transitions. The Ombudsman has not been able to confirm the exact number of Maryland borrowers that will have 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.

The 2016 and 2017 CFPB Ombudsman's annual reports found 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, 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.

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, and 2021. Since the CFPB Ombudsman did not issue an Annual Report in 2018, Mr. Cameron combined the two reporting periods into his 2019 report. Both the 2019 and 2020 reports contain a brief analysis of inquiry data, but they did not contain the listing of complaints that were handled by the Office as had been reported in the CFPB Ombudsman's prior reports of 2016 and 2017 because the Bureau no longer had an operating Memorandum of Understanding (MOU) with the U.S. Department of Education. In 2020, Mr. Cameron noted that the CFPB entered in a new information sharing MOU with the U.S. Department of Education that allows the Department to access the Bureau's complaint database as well as certain data analytics for federal backed loans

In his 2021 Annual Report, Mr. Cameron reported that the Bureau handled 5,337 complaints, a 23.2% decrease over the prior year. 3,414 (63.9%) were federal loan based complaints and 1,923 (36.1%) were private loans based complaints. Of those complaints, 83 (2.4%) and 56 (2.9%), respectively, came from Maryland residents representing slight decreases in both categories from the amounts reported in 2020. The CFPB Ombudsman attributed the decrease in complaints over

the last year to the relief provided to borrowers by the CARES Act. He attributed the decrease in complaint volumes seen in the prior two years (2019 and 2020) to a number of 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 2021 and 2020 Reports can be found at the following links, respectively:

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 CFPB continued its enforcement activity against student loan servicers and other student loan related companies during the past year. As mentioned in the last two years' Ombudsman's Annual Report, 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.

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. This 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 currently ongoing, seeks monetary relief for consumers and asks the court to end the illegal conduct.

In September 2021, reflecting its ongoing concerns with the misrepresentation of Income Sharing Agreements (ISAs) to student borrowers as non-debt instruments, the CFPB issued a consent order against Better Future Forward, Inc.; Better Future Forward Manager, LLC; Better Future Forward Opportunity ISA Fund (CP1), LLC; and Better Future Forward Opportunity ISA Fund (CH1), LLC (collectively, "BFF"), which are companies that provide students with ISAs to finance postsecondary education. The Bureau found that BFF falsely represented that its ISAs were not loans and did not create debt. The CFPB found that this conduct was deceptive, in violation of the Consumer Financial Protection Act of 2010 and that BFF failed to give certain required disclosures and imposed prepayment penalties on private education loans in violation of the Truth in Lending Act, Regulation Z, and the Consumer Financial Protection Act. The Bureau's order requires BFF to cease misrepresentations, provide consumers with required disclosures, and reform contracts to eliminate prepayment penalties. The CFPB did not impose financial penalties on BFF.

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

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

In other developments, CFPB Director Kathy Kraninger resigned in January 2021 and she was succeeded by Acting Director David Uejio. In October 2021, the U.S. Senate approved Rohit Chopra as the new 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. The Bureau also announced additional leadership changes following Mr. Chopra's appointment. This development, along with recent policy and leadership changes announced by the U.S. Department of Education during 2021, presage a closer level of coordination and cooperation between both agencies going forward. 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 during the year that the number of complaints it received around education-related issues had increased by 70% between 2018 and 2020. Reflecting its concern over that rise, the FTC, for the first time, used its Penalty Offense Authority as part of a broad-based initiative to deter for-profit college fraud and protect students.

The FTC, in October 2021, sent a Notice of Penalty Offenses ("Notice") to 70 of the largest for-profit colleges and vocational schools across the U.S. notifying them that they could incur significant sanctions for engaging in certain unlawful practices. The Notice outlined a number of

practices that the FTC has previously found to be unfair or deceptive, and noted that these practices could lead to civil penalties of up to \$43,792 per violation.

Many of the practices outlined in the Notice relate to claims made by institutions about the career outcomes of their graduates, including whether a particular career field is in demand, the percentage of graduates who get jobs in their chosen field, whether the institution can help a graduate get a job, the amount of money a graduate can expect to earn, and other related practices. The Notice cites a number of administrative cases brought by the FTC against for-profit institutions in which the Commission found practices like those outlined in the Notice to be unlawful. The Notice allows the Agency to seek civil penalties against a company that engages in conduct that it knows to be or has been found to be unlawful in a previous FTC administrative order, other than a consent order.

In addition to the Notice of Penalty Offenses, the FTC reported that on November 9, 2021, it obtained an order permanently banning Automatic Funds Transfer Services, Inc. (AFTS), a payment processor, and its owner Eric Johnson, from processing payments for student loan debt relief payments. The order alleges that AFTS and Johnson facilitated a fraudulent student loan debt relief scheme by processing at least \$31 million in consumer payments for two third-party fraudulent student loan debt relief related entities (Mission Hills Federal and Federal Direct Group) who were sued by the FTC in 2019. Under the terms of the order, AFTS and Johnson will be prohibited from processing payments indirectly for any merchant that does not have a signed contract with AFTS and will be required to apply enhanced screening and monitoring of certain high risk clients to ensure that such clients are not operating illegally. The settlement includes a monetary judgment of \$27.6 million, which was largely suspended due to an inability to pay. However, AFTS and Johnson will be required to surrender \$500,000 to the FTC for consumer redress, and if they are found to have misrepresented their financial status, the full amount of the judgment will be immediately due. 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 December 2015, as part of the Office's review of whether student loan servicers were subject to Maryland's collection agency licensing and supervision provisions, OCFR staff sent a letter to ED requesting comments and thoughts on Maryland licensing business entities servicing

governmental student loan debt. In response to that inquiry, ED's Office of the General Counsel provided a letter dated January 21, 2016 stating that State supervision would not be preempted by federal law and that such supervision would not conflict with ED's contracts with its student loan services as those contracts required general compliance with state and federal law.

In early 2018, ED published a notice in the Federal Register stating that "State regulation of the servicing of Direct Loans impedes uniquely Federal interests" and that "a requirement that Federal student loan servicers comply with 50 different State-level regulatory regimes would significantly undermine the purpose of the Direct Loan Program to establish a uniform, streamlined, and simplified lending program managed at the Federal level." As part of this pronouncement, ED's Office of the General Counsel reversed its statements made in the January 21, 2016 letter to the Commissioner and supported the ED's revised position of preemption. Following the issuance, the Conference of State Bank Supervisors (CSBS), the nationwide organization of banking regulators for the 50 states (of which OCFR is a member), opposed ED's position of preemption and argued that only Congress can make the decision on preemption. Since that time, the issue of whether federal law preempts state licensing and regulation of student loan servicers as servicers has largely been determined in favor of ED as to federal student loans in several lawsuits involving various state agencies. These decisions are briefly discussed in the "**Other State Activity**" section on page 17 of this report.

Notwithstanding the affirmance of the ED's general preemption in the field of servicing federal student loans, ED did, in May 2021, acknowledge the state's regulatory authority as to student loan servicers under certain circumstances and it reversed its prior informational request policies (see "*Student Loan Investigations*" section below). In response, in July 2021, CSBS and the North American Collection Agency Regulatory Association (NACARA), in a joint letter to the Agency, requested that it rescind the preemption policies that ED adopted in recent years which impaired state regulation of federal student loan servicers and provision of consumer protections available under state law.

In August 2021, ED responded to the letter by releasing a new 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 notice 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 is 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. CSBS and NACARA, in a September joint reply letter, expressed their strong support for the new legal interpretation. The revised interpretation is expected to help states enforce borrower bills of rights or other similar laws to address issues with

the servicing of federal student loans. The Ombudsman will continue to monitor and report on any further developments on this topic.

- *Student Loan Investigations*

In May 2021, ED 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 is expected to make it easier for any federal, state or local authority to request information from student loan servicers. In addition, it is expected to improve the CFPB's ability to supervise student loan servicers. The Ombudsman expects that the decision will improve access to information that is needed by OCFR Examiners in helping the Ombudsman resolve student loan complaints and investigations.

- *NextGen System*

ED has proposed to introduce a new technology platform, called the Next Generation Financial Services Environment ("NextGen") initiative, which involves the eventual transition from nine different student loan servicers operating on four different technology platforms to five servicers operating on one centralized servicing platform. ED expects that the Next Gen initiative will modernize the technology and operational infrastructure of the federal financial aid system that the Department currently uses. ED also expects that the changes will result in an improved customer experience, including improvements to its online presence and outreach capabilities.

Last year, the ED's Office of Federal Student Aid (FSA) announced that it signed servicing contracts with five companies to take over the servicing of FSA's more than 68 million student loan customers as part of the next step in its launch of NextGen. The five companies who were awarded contracts included: Edfinancial Services LLC, F.H. Cann & Associates LLC, MAXIMUS Federal Services Inc., Missouri Higher Education Loan Authority (MOHELA), and Texas Guaranteed Student Loan Corporation ("Trellis Company"). Existing servicers including Navient, Nelnet, FedLoan Servicing, and Great Lakes Higher Education were not awarded contracts. ED also announced, at that time, that it expected the new service contracts would commence in December 2020 when the current contracts were set to expire. Private student loans (including some Federal Family Education Loan Program and Perkins loans owned by private lenders) will not be impacted by the Education Department's servicing changes.

In August 2020, however, the FSA's Chief Operating Officer in the agency's [blog post](#), reversed its timeline and stated that the existing contracts would now be extended through 2021 and 2022⁸.

⁸ "We're Taking Steps to Improve Federal Loan Servicing", HOMEROOM-The Official Blog of the U.S. Department of Education (August 4th 2020).

The blog post did not provide any reasoning for the change of the timeline and it is thought that the extension was implemented in order to avoid the complications that can be expected to occur as the CARES Act provisions expire and borrowers begin repayment of their federal student loans. The aforementioned Chief Operating Officer is no longer with the FSA and the Agency has made no further announcements regarding NextGen during 2021. The Ombudsman will continue to monitor and report on any other NextGen developments.

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

In 2020, three student loan servicing companies announced that they would no longer service federal student loans and terminated their loan servicing contracts with ED: 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”). The servicers did not elaborate on the reasons for their decisions but originally indicated that they would not seek to extend their respective contracts beyond their expiration dates.

In November 2021, FedLoan Servicing, which services 8.5 million borrowers, announced that it signed a one-year contract extension with ED, expiring in December 2022, to assist with an orderly transition of borrowers to a new servicer. ED, in the third quarter of 2021, began transferring loans serviced by Granite State and FedLoan Servicing to other servicers (EdFinancial Services, MOHELA, NelNet and Navient). Navient in turn, with ED’s consent and as described above, has transferred its federal student loan contract (servicing approximately 5.6 million borrowers) to Maximus Inc., who will take over as a party to the contract and will use the existing servicing system to manage borrower’s accounts.

The Ombudsman issued advisories and notified the State’s universities and colleges alumni directors, via email blasts in the 3rd and 4th quarters of the year, about these developments in order to inform Maryland borrowers of these changes.

- ***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 the year. These announcements and actions are expected to bring some clarity, and in some cases, settle certain issues as further discussed below.

- ***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 HEA), to issue “borrower defense” regulations that would provide (a) 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 have already have 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. The Ombudsman has no additional information on this case at this time, but believes that it may be impacted by ED’s borrower defense announcement (see below). 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.

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. Under the Biden Administration, with that addition, the total balance of loan cancellations based on the borrower defense regulations will be over \$1.5 billion benefitting nearly 92,000 borrowers. 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, the PSLF borrowers became eligible for forgiveness in October 2017. Since then, 90,962 people have applied for loan discharge pursuant to PSLF, but only 845 (1%) have received it and 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. According to legal allegations in cases such as [*Weingarten et al v. U.S. Dept. of Educ. et al*](#), and those made by consumer protection groups, public unions, and federal government reports, ED committed pervasive errors in administering the PSLF program. Maryland's Attorney General, along with the attorneys general of 18 other states and the District of Columbia, filed an amicus brief supporting the plaintiffs in the *Weingarten* case.

Responding to those criticisms, after many months of signaling its intentions, ED in October of this year announced an expansion of the PSLF program called the "Limited PSLF Waiver" ("Limited"). In effect, the Agency stated that it will 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 will also 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 will 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 November that approximately 10,000 borrowers had received over \$715 million in student loan forgiveness and estimated that another 39,000 would qualify for over \$3.82 billion in loan forgiveness shortly after that. While ED has provided automatic relief for some student loan borrowers, many other borrowers will be required to take action in order to qualify for relief. Borrowers who still have Perkins or FFEL loans will have to consolidate their loans through the Direct consolidation program and those borrowers that have not certified all of their past and present public service employment (with PSLF Certification forms) will have to do so before October 31, 2022. ED estimates that there are at least another 550,000 borrowers who will receive credit for qualifying payments, with the average borrower receiving another twenty four months of qualifying payments that will be applied towards their loans.

In addition to PSLF and other student loan forgiveness, during the year the President also announced the cancellation of approximately \$5.8 billion in student loan debt for borrowers with permanent disabilities. The administration has also indicated its intention to cancel student loan debt held by qualifying military personnel and veterans.

President Biden, during his presidential campaign, indicated his support for a \$10,000 blanket student loan forgiveness proposal as part of his administration's response to the COVID-19 recession. That proposal is now under legal review by ED at the request of the administration. The review is to determine if the President has the authority to unilaterally cancel student loans or whether Congress must enact legislation authorizing the President to do so. While the President has indicated support for forgiving up to \$10,000 in student loan balances, some members of Congress support student loan forgiveness of up to \$50,000 per student. There is no consensus about student loan forgiveness and, to date, there has been no indication as to when ED's legal review of the subject will be completed. The Ombudsman will continue to monitor and report on any developments with the PSLF program and notify Maryland borrowers of the ongoing developments.

Maryland Activity

In January 2021, the Maryland Higher Education Commission (MHEC) announced that it awarded \$9 million in student loan debt relief tax credits to 8,000 state residents with student loan debt for the 2020 tax year. Over the last four years' \$32 million in student loan debt relief tax credits have been issued to Maryland residents. Applications for the tax credits may be submitted from July 1st to September 15th of each year.

The SmartWork's Student Loan Repayment Plan (SLRP), a student debt relief program for qualified Maryland state employees, which was created by an Executive Order in 2018, continued in operation. SLRP offers state employees working in specified shortage areas – such as nurses, correctional officers, police, and IT workers – the opportunity to receive state assistance with student loan debt. Current state employees in eligible job classifications who are paying down their children's student loans may also qualify for this benefit, for children age 25 and younger. The maximum benefit is \$20,000 over a ten-year period. Last year, 815 state employees applied to the program. 668 were approved to participate with 49 pending approval. 282 of the successful applicants received their first payment with the average payment of \$1,790 per applicant and will be eligible for a second payment of up to \$2,000 on January 1, 2022. In 2021, 52 state employees applied to the program and 40 were approved to participate. 183 participants, from this and last year, received their first payment and applicants that were accepted this year are eligible for their first payment in 2022. The average payment was \$1,640. The Maryland Department of Budget and Management, which administers the SLRP program, reports that it is now fully subscribed and will no longer be accepting any new applicants.

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, New Jersey, Nevada, Virginia, and Washington (which created a position of “advocate” with authority similar to others states’ ombudsmen). In January 2021, Massachusetts established a student loan ombudsman and a licensing requirement for student loan servicers. In June 2021, Oregon also adopted a student loan borrower’s bill of rights legislation which established a student loan ombudsman in the state. The Ombudsman continues to communicate on an ongoing basis throughout the year with many of the various states’ ombudspersons in order to stay abreast of potential developments and initiatives, particularly those that have occurred at ED, and to exchange advice and information. Finally, New Jersey passed a bill in March 2021 (NJ S2358) which requires that private student loan lenders be licensed and establishes protections for private education borrowers. The Ombudsman and OCFR are evaluating the implications of this law and will monitor and report on any developments.

Changes to 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 mentioned in last year’s annual report, the case of [*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. The Bankruptcy court will again see this case and since opinions of the Bankruptcy court are appealed to the District Court, and in turn to the Circuit and Supreme Courts, the case could have a long process to go through before a final decision is reached.

Two other student loan related court decisions that were of note this year occurred in Texas and New York respectively. In [*Crocker v. Navient Solutions \(5th Circuit Court of Appeals\)*](#) and [*Hilal K. Homaidan v. Sallie Mae / Navient \(2nd Circuit Court of Appeals\)*](#), both courts ruled 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. The Ombudsman and Office are evaluating the implications of these cases 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 email, mail, or fax 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 dedicated 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 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 will receive confirmation of their filing via email acknowledgement.

STUDENT LOAN OMBUDSMAN EDUCATION AND OUTREACH

The Ombudsman undertook a number of activities over the last three years 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. 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 of financial education symposiums and conferences 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, and CAFÉ Montgomery. The Ombudsman is also a member of the Maryland Consumer Rights Coalition's 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.

- 5) Attendance, in conjunction with the Commissioner, of “Listening Sessions with the Commissioner” at different locations throughout the State and virtually during the pandemic lockdowns. 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) 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 the COVID-19 Impact and the CARES Act

At the onset of the COVID-19 pandemic, the Ombudsman and the Office undertook a number of actions and initiatives in order that were designed to maintain service to consumers and stakeholders during the lockdown and institution of remote work protocols. The most significant step taken last year was that the Office, following Governor Hogan’s emergency executive order and consistent with Department of Labor direction, on March 16, 2020 implemented a policy of mandatory teleworking for all Office staff. The Ombudsman and the Office successfully implemented their contingency plans and continued to accept and process student loan borrower’s complaints without interruption throughout the transition and afterwards to the present. The Ombudsman was active during the pandemic as noted in last year’s report and in 2021:

- Issued an Advisory for student loan borrowers announcing the transfer of borrowers’ account from Granite State to EdFinancial Services and provided advice as well as resource and contact information.

- Sent an email blast to the state’s universities and community college alumni directors announcing the transfer of borrowers’ account from Granite State to EdFinancial Services and provided advice, as well as resource and contact information, for them to share with their alumni.
- Will issue an Advisory at the end of the year notifying borrowers of the sunset of the CARES Act on January 31, 2022.

On July 1, 2021, Governor Hogan lifted the state of emergency and mandatory teleworking was modified to a hybrid model of both office attendance and teleworking. As a result, the Ombudsman and Office staff resumed working from the office for a limited number of days each week.

Despite the limitations on in-person activities due to the pandemic, the Ombudsman also participated in a number of outreach events during this and the last fiscal year. These included stakeholder advocate conference calls with the Commissioner and senior Office staff to discuss potential areas of concern and to solicit feedback. The Ombudsman also participated in virtual meetings with housing counseling, legal service, and community development groups to share the newest information about COVID-19 policies and resources. The Ombudsman remains in regular contact with his counterparts in other states to stay apprised of developments 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 during the post coronavirus pandemic. Going forward, the Ombudsman expects inquiries to increase in FY 2022 as federal relief measures expire and borrowers (a) will be required to begin repayment of their student loans, (b) may experience transfer errors, and (c) continue to be denied loan forgiveness.

ANALYSIS OF STUDENT LOAN INQUIRIES

In the 39 months since the Ombudsman’s position was established 78 student loan servicers have provided their designee information and 10 Private Student Loan Servicers are licensed as debt collectors. The Office has received 50 individual inquiries from student loan borrowers from all parts of the State during the past 39 months. This year, inquiries decreased by 35.3% from 17 to 11 and over the last three years inquiries decreased by 50% from 22 in 2019. This decrease over the last two years continues to mirror the decrease in inquiries also experienced by the CFPB and reflects the overall decrease in complaints at a national level. It is not possible to identify a particular reason for the continued decrease in inquiries, but the Ombudsman believes that demand for assistance has been temporarily dampened due to the financial relief provided to borrowers under the CARES Act. With the extension of the loan repayment moratorium during 2021, the expected increase in demand anticipated by the Ombudsman in last year’s report did not occur but it is still expected to increase as the forbearance provisions in the Act expire on January 31, 2022.

86% (43) of the inquiries were related to student loan servicers, five were related to debt collection businesses, while the remaining two inquiries were related to educational institutions. All inquiries received have been resolved and no inquiries or matters were referred to the Attorney General's Office this year.

As was the case in prior years (2019 and 2020), 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 these student loan borrowers. Of note, during the past year the Ombudsman was successful in locating \$31,315 in misapplied funding on behalf of a complainant who had, for the prior 18 months, been unsuccessful in her attempts to locate the payment with her servicer. The funds were eventually returned and correctly applied which allowed the complainant to pay off her debt.

76% (38) of the inquiries from complainants were directed at three student loan servicers: (a) Navient Solutions, LLC (17), (b) Pennsylvania Higher Education Assistance Agency (PHEAA and its affiliated entities, FedLoan and American Education Services) (12), and (c) NelNet Servicing, LLC (9). This level is not surprising given that these three servicers are also the largest companies in the industry.

Over three quarters (78%) of all inquiries were from, Prince George's (11), Montgomery (8), Anne Arundel (7), Baltimore City (6), Baltimore (4) and Charles (3) Counties. This representation is not entirely unexpected as the first five 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 78 points of contact obtained by the Ombudsman since the position was established over three 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, the election of Joe Biden and the installation of a new administration including leadership changes at ED, the CFPB, and other 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 only took effect in the last quarter of this year and not enough time has passed to evaluate the results. Of particular concern this year and next year are: (a) the more than 23 million Direct Loans that are currently in forbearance status and that will be required to begin making payments by February 1, 2022; (b) the expected transfer between loan servicers of over 16 million student loan accounts during the final quarter of 2021 and throughout 2022; (c) the effectiveness of the proposed changes by ED to speed up the public student loan forgiveness process; and (d) the continued uncertainty around the \$10,000 blanket student loan forgiveness proposed by President Biden.

The Ombudsman expects that the volume of inquiries next year should increase as the CARES Act forbearance expires and the new administration's policy changes start to take effect. However, the Ombudsman also expects a greater number of Maryland student loan borrower complaints to migrate to the CFPB as it begins to resume a more robust role in handling consumer complaints. The data derived from those inquiries may provide sufficient information to evaluate 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.

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, promote the Office and in particular the Maryland Student Loan Borrower's Bill of Rights.

STEPS FOR THE UPCOMING YEAR

In last year's Annual Report the Ombudsman described various steps in the areas of (i) Education and Outreach, and (ii) Processes and Procedures that would be pursued in 2021. 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 in 2021 due to the extensions of the payment forbearances initially established under the CARES Act and, until the last quarter of this year, delayed actions by ED to overturn past policies, regulations, and decisions. The Ombudsman reviewed and expanded his contact list to include community college alumni contacts and began contacting both groups in the last quarter of this year once decisions and announcements were made by ED.

Action: In 2022, the Ombudsman plans to deepen engagement with the State's university and community alumni associations in the upcoming year to promote the Ombudsman's activities and disseminate information about student loans and the servicing of student loans.

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

Action: Although no specific new stakeholders or strategic partners were identified during the year, 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 was updated in the second and third quarters 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 update the modules in the education program to reflect any changes ED may make to its programs during next year, particularly those centered on student loan forgiveness.

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) through the post pilot phase and received additional SES training on the system and related Office policies and procedures during the year. The Assistant Director of the Office's Consumer Services Unit was successfully nominated by OCFR management to 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 continue to implement utilization of the SES in 2022.

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

Status: The Student Loan Ombudsman Complaint Form was upgraded and complaint data can now be imported directly from the Ombudsman's web page to the Office's consumer complaint database. The optional paper complaint form was also updated.

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

Action: The Ombudsman is exploring the feasibility of additional modifications to the form in order to allow data from the complaint to be imported directly from the Ombudsman's web page to the Office's consumer complaint database.