

116TH CONGRESS
1ST SESSION

H. R. 4596

To improve service to students and other participants in the Federal student financial assistance programs, to establish the Office of the Borrower Advocate to replace the Student Loan Ombudsman, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 1, 2019

Ms. OMAR (for herself and Ms. SCANLON) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To improve service to students and other participants in the Federal student financial assistance programs, to establish the Office of the Borrower Advocate to replace the Student Loan Ombudsman, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Student Loan Advoca-
5 cacy Act”.

1 **SEC. 2. PERFORMANCE-BASED ORGANIZATION FOR DELIV-**
2 **ERY OF FEDERAL STUDENT FINANCIAL AS-**
3 **SISTANCE.**

4 (a) PBO.—Section 141 of the Higher Education Act
5 of 1965 (20 U.S.C. 1018) is amended—

6 (1) in subsection (a), by amending paragraph
7 (2) to read as follows:

8 “(2) PURPOSES.—The purposes of the PBO are
9 as follows:

10 “(A) To prioritize students and borrowers
11 in the decisionmaking process of the PBO.

12 “(B) To improve service to students and
13 other participants in the Federal student finan-
14 cial assistance programs authorized under title
15 IV.

16 “(C) To make such programs more under-
17 standable to students and their parents.

18 “(D) To increase the efficiency and effec-
19 tiveness of such programs for students and
20 their parents.

21 “(E) To manage the costs of administering
22 such programs.

23 “(F) To increase the accountability of the
24 officials responsible for administering the oper-
25 ational aspects of such programs.

1 “(G) To increase oversight of institutions,
2 contractors, and third party servicers that par-
3 ticipate in the Federal student financial assist-
4 ance programs authorized under title IV.

5 “(H) To provide greater flexibility in the
6 management and administration of such pro-
7 grams.

8 “(I) To implement open, common, inte-
9 grated systems for the delivery of Federal stu-
10 dent financial assistance programs authorized
11 under title IV.

12 “(J) To develop and maintain a student fi-
13 nancial assistance system that contains com-
14 plete, accurate, and timely data to ensure pro-
15 gram integrity.

16 “(K) To increase transparency in the oper-
17 ations and outcomes of Federal student finan-
18 cial assistance programs authorized under title
19 IV.”;

20 (2) in subsection (b)—

21 (A) in paragraph (1)—

22 (i) by redesignating subparagraphs
23 (B) and (C) as subparagraphs (C) and
24 (D), respectively; and

1 (ii) by inserting after subparagraph
2 (A) the following:

3 “(B) implement oversight and account-
4 ability measures to ensure that the PBO carries
5 out its duties under this section efficiently, ef-
6 fectively, and in a manner that accomplishes
7 the purposes specified in subsection (a)(2);”;

8 (B) in paragraph (2)(A)—

9 (i) by redesignating clauses (ii)
10 through (vi) as clauses (iii) through (vii);

11 (ii) by inserting after clause (i) the
12 following:

13 “(ii) in accordance with paragraph
14 (3), the collection, publication, and sharing
15 of longitudinal data that may be used to
16 evaluate Federal student financial assist-
17 ance programs authorized under title IV,
18 including the outcomes such programs
19 achieve;” and

20 (iii) in clause (vii), as so redesignated,
21 by inserting “, including oversight of insti-
22 tutions, contractors, and third party
23 servicers that participate in such pro-
24 grams” after “title IV” ;

1 (C) by redesignating paragraphs (3)
2 through (6) as paragraphs (4) through (7), re-
3 spectively; and

4 (D) by inserting after paragraph (2) the
5 following:

6 “(3) COLLECTION, SHARING, AND PUBLICATION
7 OF DATA.—

8 “(A) COLLECTION.—The PBO shall collect
9 longitudinal data, including student-level data,
10 that shall be used to evaluate Federal student
11 financial assistance programs authorized under
12 title IV.

13 “(B) SHARING WITH NCES.—The PBO
14 shall make the data collected under subpara-
15 graph (A) available to the Commissioner of the
16 National Center for Education Statistics for
17 purposes of research and policy analysis.

18 “(C) SHARING WITH RESEARCHERS.—The
19 Commissioner of the National Center for Edu-
20 cation Statistics shall make the data shared
21 under subparagraph (B) available to research-
22 ers for vetted research and evaluation purposes.
23 Data made available to researchers under this
24 subparagraph shall not include any data that
25 would reveal personally identifiable information.

1 “(D) PUBLICATION.—

2 “(i) IN GENERAL.—Not less fre-
 3 quently than once annually, and subject to
 4 clause (ii), the PBO shall make the data
 5 collected under subparagraph (A) available
 6 on a publicly accessible website of the De-
 7 partment of Education in a format that
 8 enables members of the public to easily re-
 9 trieve, sort, and analyze the data.

10 “(ii) PRIVACY PROTECTIONS.—The
 11 data made available under clause (i) shall
 12 not include—

13 “(I) student-level data; or

14 “(II) any data that would reveal
 15 personally identifiable information
 16 about an individual student.”.

17 (3) by amending subsection (c) to read as fol-
 18 lows:

19 “(c) PERFORMANCE PLAN, REPORT, AND BRIEF-
 20 ING.—

21 “(1) PERFORMANCE PLAN.—

22 “(A) IN GENERAL.—Not later than one
 23 year after the date of the enactment of the Stu-
 24 dent Loan Advocacy Act, and not less than
 25 once every five years thereafter, the Secretary

1 and Chief Operating Officer shall agree on a
2 performance plan for the PBO for the suc-
3 ceeding 5 years that—

4 “(i) establishes measurable quan-
5 titative and qualitative goals and objectives
6 for the organization; and

7 “(ii) aligns such goals and objectives
8 with the purposes specified in subsection
9 (a)(2).

10 “(B) CONSULTATION.—In developing the
11 five-year performance plan and any revision to
12 the plan, the Secretary and the Chief Operating
13 Officer shall consult with students, institutions,
14 Congress, contractors, the Borrower Advocate,
15 student aid experts, including consumer advo-
16 cacy and research groups, the Director of the
17 Bureau of Consumer Financial Protection,
18 State attorneys general, and other relevant par-
19 ties.

20 “(C) REVISIONS.—The Secretary and
21 Chief Operating Officer may annually update
22 the plan under paragraph (1) to incorporate the
23 recommendations made pursuant to the con-
24 sultation required under subparagraph (B) that

1 are accepted by the Secretary and the Chief
2 Operating Officer.

3 “(D) AREAS.—The plan developed under
4 subparagraph (A) shall address the responsibil-
5 ities of the PBO in the following areas:

6 “(i) Improving service to students and
7 other participants in the Federal student
8 financial assistance programs authorized
9 under title IV, including making those pro-
10 grams more understandable and accessible
11 to students and their parents.

12 “(ii) Managing the costs and increas-
13 ing the efficiency of such programs.

14 “(iii) Improving, integrating, and in-
15 vesting in the systems that support such
16 programs.

17 “(iv) Developing open, common, and
18 integrated systems for such programs.

19 “(v) The collection, publication, and
20 sharing of data on such programs as de-
21 scribed in subsection (b)(3).

22 “(vi) Improving performance stand-
23 ards and outcomes with respect to institu-
24 tions, contractors, and third party servicers
25 that act as agents of the Department or as

1 agents of institutions that participate in
2 such programs.

3 “(vii) Any other areas identified by
4 the Secretary.

5 “(E) PUBLIC AVAILABILITY.—Each plan
6 developed under subparagraph (A) shall be
7 made available on a publicly accessible website
8 of the Department of Education.

9 “(2) ANNUAL REPORT.—

10 “(A) REPORT REQUIRED.—Not later than
11 one year after the date of the enactment of the
12 Student Loan Advocacy Act and annually there-
13 after, the Secretary, acting through the Chief
14 Operating Officer, shall submit to Congress an
15 annual report on the performance of the PBO.

16 “(B) CONTENTS.—The annual report shall
17 include the following:

18 “(i) An evaluation of the extent to
19 which the PBO met the goals and objec-
20 tives contained in the five-year perform-
21 ance plan described in paragraph (1) for
22 the preceding year.

23 “(ii) A summary of the consultation
24 process under paragraph (1)(B) for the
25 preceding year, including the recommenda-

1 tions that were accepted or denied by the
2 Chief Operating Officer during such year,
3 and the rationale for accepting or denying
4 such recommendations.

5 “(iii) An independent financial audit
6 of the expenditures of both the PBO and
7 the programs administered by the PBO.

8 “(iv) A summary of the actions taken
9 by the PBO to address—

10 “(I) the findings of the audit de-
11 scribed in clause (iii); and

12 “(II) consumer feedback.

13 “(v) Financial and performance re-
14 quirements applicable to the PBO under—

15 “(I) the Chief Financial Officers
16 Act of 1990 (Public Law 101–576);
17 or

18 “(II) the Government Perform-
19 ance and Results Act of 1993 (Public
20 Law 103–62).

21 “(vi) The results achieved by the PBO
22 during the preceding year and whether
23 such results met the goals specified in the
24 performance plan under paragraph (1).

1 “(vii) With respect to the preceding
2 year, the evaluation rating of the perform-
3 ance of the Chief Operating Officer and
4 senior managers under subsections (d)(5)
5 and (e)(2), including the amounts of bonus
6 compensation awarded to the Chief Oper-
7 ating Officer and senior managers.

8 “(viii) Recommendations for legisla-
9 tive and regulatory changes to improve
10 service to students and their families, and
11 to improve the efficiency and integrity of
12 Federal student financial assistance pro-
13 grams authorized under title IV.

14 “(ix) Financial statements that pro-
15 vide a rationale for appropriately funding
16 the activities of the PBO.

17 “(x) A summary of the management
18 and compliance of contractors managed by
19 the PBO in the preceding year, including
20 corrective actions taken by the PBO with
21 respect to such contractors.

22 “(xi) A description of how the PBO
23 used the authority under paragraph (5) of
24 subsection (b) for making personnel and
25 procurement decisions in the preceding

1 year, including the number of individuals
2 hired through such authority and the bo-
3 nuses provided to staff during such year.

4 “(xii) A summary of the oversight ac-
5 tivities of institutions, contractors, and
6 third party servicers that participate in the
7 Federal student financial assistance pro-
8 grams authorized under title IV includ-
9 ing—

10 “(I) fines levied on such institu-
11 tions, contractors, and third party
12 servicers, disaggregated by entity;

13 “(II) instances of fraud or mis-
14 representation by such institutions,
15 contractors, or third party servicers;
16 and

17 “(III) violations of provisions in
18 this Act by such institutions, contrac-
19 tors, or third party servicers
20 disaggregated by entity and type of
21 violation.

22 “(xiii) A summary of any improve-
23 ments made with respect to transparency
24 and any new types of data made available
25 in the preceding year.

1 “(xiv) A description of the progress
2 made in the preceding year towards the
3 specific measurable organization and indi-
4 vidual goals specified in subsection
5 (d)(5)(A).

6 “(xv) The report submitted to the
7 Secretary under subsection (f)(7).

8 “(xvi) Other such information as the
9 Director of the Office of Management and
10 Budget shall prescribe for performance
11 based organizations.

12 “(3) CONSULTATION WITH STAKEHOLDERS.—
13 The Chief Operating Officer, in preparing the an-
14 nual report described in paragraph (2), shall estab-
15 lish appropriate means to consult with students, bor-
16 rowers, institutions, student aid experts, including
17 consumer advocacy and research groups, the Direc-
18 tor of the Bureau of Consumer Financial Protection,
19 and others involved in the delivery and evaluation of
20 student aid under title IV—

21 “(A) regarding the degree of satisfaction
22 with the delivery system; and

23 “(B) to seek suggestions on means to im-
24 prove the performance of the delivery system.

1 “(4) BRIEFING ON ENFORCEMENT OF PROGRAM
2 INTEGRITY.—The Secretary shall, at the request of
3 the authorizing committees, provide to the author-
4 izing committees a briefing on the steps the Depart-
5 ment of Education has taken to ensure—

6 “(A) the experiences of students and bor-
7 rowers are accounted for in decision making;
8 and

9 “(B) that contractors, lenders, and guar-
10 anty agencies and third party servicers are ad-
11 hering to the requirements of title IV, the terms
12 of any contract with the Secretary, consumer
13 protection laws, Federal regulations and guide-
14 lines, and directives of the PBO.

15 “(5) COORDINATION WITH THE DIRECTOR OF
16 THE BUREAU OF CONSUMER FINANCIAL PROTEC-
17 TION.—Not later than 180 days after the date of the
18 enactment of the Student Loan Advocacy Act, the
19 Secretary shall enter into a memorandum of under-
20 standing with the Private Education Loan Ombuds-
21 man in accordance with section 1035(c)(2) of the
22 Dodd-Frank Wall Street Reform and Consumer Pro-
23 tection Act (12 U.S.C. 5535(c)(2)).”.

24 (4) in subsection (d)—

1 (A) in paragraph (1), by striking “manage-
2 ment ability” and all that follows through the
3 period at the end and inserting “management
4 ability, including contractor management, ex-
5 pertise in the Federal student financial assist-
6 ance programs authorized under title IV, expe-
7 rience with financial systems, and knowledge of
8 consumer financial protection laws, and without
9 regard to political affiliation or activity.”;

10 (B) by redesignating paragraphs (2)
11 through (5) as paragraphs (3) through (6);

12 (C) by inserting after paragraph (1) the
13 following:

14 “(2) RESTRICTIONS.—

15 “(A) PRESERVICE AND IN-SERVICE RE-
16 STRICTIONS.—An individual may not serve as
17 the Chief Operating Officer if such individual—

18 “(i) is employed by, or has a financial
19 interest in, an entity that contracts with
20 the PBO; or

21 “(ii) was employed by, or had a finan-
22 cial interest in, any such entity in any of
23 the five years preceding the date of the in-
24 dividual’s appointment as the Chief Oper-
25 ating Officer.

1 “(B) POSTSERVICE RESTRICTIONS.—An
2 individual who served as the Chief Operating
3 Officer may not accept employment with an en-
4 tity that contracts with the PBO until a period
5 of five years has elapsed following the date on
6 which such individual’s service as the Chief Op-
7 erating Officer terminated.”;

8 (D) in paragraph (5), as so redesignated—

9 (i) in subparagraph (A)—

10 (I) by inserting “specific” before

11 “measurable”; and

12 (II) by inserting “and metrics

13 used to measure progress toward such

14 goals” before the period; and

15 (ii) in subparagraph (B), by inserting

16 “on the website of the Department” before

17 the period; and

18 (E) in paragraph (6), as so redesignated,

19 by amending subparagraph (B) to read as fol-
20 lows:

21 “(B) BONUS AUTHORIZED.—The Secretary

22 may pay to the Chief Operating Officer a bonus

23 in an amount that does not exceed 50 percent

24 of such annual rate of basic pay. The decision

25 to pay such a bonus, and the amount of the

1 bonus, shall be based solely on the Secretary’s
2 evaluation of the performance of the Chief Op-
3 erating Officer with respect to the goals set
4 forth in the performance agreement as de-
5 scribed in paragraph (5)(A).”;

6 (5) in subsection (e)(2), by striking “organiza-
7 tion and individual goals” and inserting “specific,
8 measurable organization and individual goals and
9 the metrics used to measure progress toward such
10 goals. Performance agreements for senior manage-
11 ment responsible for procurement shall include
12 metrics that measure ability to oversee contractors.”;

13 (6) by amending subsection (f) to read as fol-
14 lows:

15 “(f) BORROWER ADVOCATE.—

16 “(1) IN GENERAL.—There is established in the
17 PBO an ‘Office of the Borrower Advocate’ (referred
18 to in this subsection as the ‘Office’). The function of
19 the Office shall be to provide timely assistance to
20 borrowers of loans made, insured, or guaranteed
21 under title IV by performing the duties described in
22 paragraph (6).

23 “(2) HEAD OF OFFICE.—There shall be an offi-
24 cial known as the ‘Borrower Advocate’ who shall
25 serve as the head of the Office. The Borrower Advo-

1 cate shall be appointed by the Secretary from among
2 individuals who have worked closely with the Federal
3 student loan programs authorized under title IV.

4 “(3) REMOVAL.—The Borrower Advocate may
5 be removed only by the Secretary who shall commu-
6 nicate the reasons for any such removal to the au-
7 thorizing committees.

8 “(4) RESTRICTIONS.—

9 “(A) PRESERVICE AND IN-SERVICE RE-
10 STRICCTIONS.—An individual may not serve as
11 the Borrower Advocate if such individual—

12 “(i) is employed by, or has a financial
13 interest in, an entity that contracts with
14 the PBO; or

15 “(ii) was employed by, or had a finan-
16 cial interest in, any such entity in any of
17 the five years preceding the date of the in-
18 dividual’s appointment as the Borrower
19 Advocate.

20 “(B) POSTSERVICE RESTRICTIONS.—An
21 individual who served as the Borrower Advocate
22 may not accept employment with an entity that
23 contracts with the PBO until a period of five
24 years has elapsed following the date on which

1 such individual's service as the Borrower Advoca-
2 cate terminated.

3 “(5) STAFF.—The Office shall be staffed suffi-
4 ciently to carry out the responsibilities of the Office
5 under this subsection.

6 “(6) DUTIES OF THE BORROWER ADVOCATE.—
7 The Office of the Borrower Advocate shall—

8 “(A) assist borrowers of loans made, in-
9 sured, or guaranteed under title IV in resolving
10 problems with the PBO and its contractors or
11 other agents, including by—

12 “(i) receiving and reviewing com-
13 plaints of such problems from borrowers;

14 “(ii) working to resolve such com-
15 plaints in a manner that is in the best in-
16 terests of borrowers; and

17 “(iii) transmitting such complaints to
18 States and recognized accrediting agencies
19 or associations, as appropriate;

20 “(B) attempt to resolve complaints within
21 the Department of Education and with institu-
22 tions of higher education, lenders, guaranty
23 agencies, loan servicers, and other participants
24 in the Federal student loan programs author-

1 ized under title IV in a manner that will im-
2 prove the experience of the borrower;

3 “(C) compile and analyze data on borrower
4 complaints and share such data with the Direc-
5 tor of the Bureau of Consumer Financial Pro-
6 tection;

7 “(D) publish, with any personally identifi-
8 able information redacted, such complaints and
9 responses of the Secretary to such complaints
10 on the website of the Department; and

11 “(E) make appropriate recommendations
12 to Congress, the Chief Operating Officer, and
13 Secretary with respect to Federal student loan
14 programs authorized under title IV and the ex-
15 periences of borrowers in repayment of loans
16 under such programs.

17 “(7) PUBLIC INFORMATION.—The Chief Oper-
18 ating Officer shall establish and maintain a public
19 page on the website of the Department of Education
20 exclusively to provide members of the public with in-
21 formation about the role of the PBO with respect to
22 the oversight of institutions of higher education,
23 lenders, guaranty agencies, contractors that contract
24 with the PBO, subcontractors of such contractors,
25 and third party servicers.

1 “(8) REPORT.—On an annual basis, the Bor-
2 rower Advocate shall submit to the Chief Operating
3 Officer a report on the activities of the Office during
4 the preceding year that—

5 “(A) identifies the activities carried out by
6 the Borrower Advocate;

7 “(B) summarizes the complaints received
8 from borrowers, including the number of such
9 complaints, and explains the activities under-
10 taken by the PBO to address such complaints;

11 “(C) proposes changes in the administra-
12 tive practices of the PBO to mitigate problems
13 experienced by borrowers; and

14 “(D) identifies potential legislative changes
15 which may be appropriate to mitigate such
16 problems.”;

17 (7) by redesignating subsection (i) as subsection
18 (j); and

19 (8) by inserting after subsection (h) the fol-
20 lowing:

21 “(i) THIRD PARTY SERVICER DEFINED.—In this sec-
22 tion, the term ‘third party servicer’ has the meaning given
23 that term in section 481(c).”.

1 (b) DEFINITION OF THIRD-PARTY SERVICER.—Sec-
2 tion 481(c) of the Higher Education Act of 1965 (20
3 U.S.C. 1088(c)) is amended—

4 (1) in the matter preceding paragraph (1), by
5 striking “contract” and inserting “contract or other
6 agreement, including a revenue sharing arrange-
7 ment,”; and

8 (2) in paragraph (1), by striking “, through ei-
9 ther manual or automated processing, any aspect of
10 such institution’s student assistance programs” and
11 inserting “services on behalf of the institution re-
12 ceiving student assistance funds”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 433(b)(13) of the Higher Education
15 Act of 1965 (20 U.S.C. 1083(b)(13)) is amended by
16 striking “Student Loan Ombudsman” and inserting
17 “Borrower Advocate”.

18 (2) Section 433(e)(3)(E) of the Higher Edu-
19 cation Act of 1965 (20 U.S.C. 1083(e)(3)(E)) is
20 amended by striking “Student Loan Ombudsman”
21 and inserting “Borrower Advocate”.

○