

State Council of Higher Education for Virginia



**Annual Report
Office of the
Qualified Education Loan
Ombudsman**

January 1, 2021



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SUMMARY

The Code of Virginia directs the State Council of Higher Education for Virginia (SCHEV) to submit an annual report to the House Committees on Commerce and Labor and Education and the Senate Committees on Commerce and Labor and Education and Health on the implementation and overall effectiveness of the Office of the Qualified Education Loan Ombudsman ([§ 23.1-234](#)). Terms associated with the operation of the office are defined in [§ 23.1-231](#).

The following are the key findings from the 2020 annual report.

1. In its first two years of operation, the Student Loan Advocate worked directly with 303 education loan borrowers.
2. Outreach efforts focused on developing and expanding the webpage (schev.edu/studentloan) and participating in panels and conference presentations at state and national events.
3. Data collected on borrower cases identified three main issues for Virginia education loan borrowers: understanding the complexity of the loans, troubleshooting eligibility issues with the Public Service Loan Forgiveness Program, and filing Borrower Defense to Repayment claims against Federal Student Aid for borrowers who claimed they were defrauded or misled by their college or university.
4. The office generated a list of federal policy recommendations to address many of the issues that Virginia borrowers experience.
5. Having secured funding from the General Assembly to partner with a vendor for the Qualified Education Loan Borrower Education Course, proposals are being reviewed, with a projected launch of the online learning modules by April 30, 2021.
6. Virginia's Student Loan Advocate worked with other state advocates to secure relief for borrowers whose education loans were not covered by federal COVID-19 assistance and to extend existing CARES Act relief through the end of the year.



PURPOSE OF THIS REPORT

This report fulfills the legislative requirement for the Office of the Qualified Education Loan Ombudsman (the Office), staffed by the Student Loan Advocate.

The General Assembly and Governor established the Office during the 2018 General Assembly session. An excerpt of the enabling legislation and purpose is included below along with expected annual reporting requirements. (The full legislation is in Appendix A.)

§ 23.1-232. Office of the Qualified Education Loan Ombudsman established; duties.

A. The Council shall create within the agency the Office of the Qualified Education Loan Ombudsman. The Office of the Qualified Education Loan Ombudsman shall provide timely assistance to any qualified education loan borrower of any qualified education loan in the Commonwealth. All state agencies shall assist and cooperate with the Office of the Qualified Education Loan Ombudsman in the performance of its duties under this article.

§ 23.1-234. Reports.

On or before January 1, 2019, and annually thereafter, the Council shall submit a report to the House Committees on Commerce and Labor and Education and the Senate Committees on Commerce and Labor and Education and Health. The report shall address (i) the implementation of this article and (ii) the overall effectiveness of the Office of the Qualified Education Loan Ombudsman.

The report contains information on the requirements and duties of the office, including efforts to inform the public of the availability of the office, outcomes of the complaints and concerns registered with the office, progress toward meeting the needs of Virginia borrowers and the status of the Qualified Education Loan Borrower Education Course.



OVERALL EFFECTIVENESS

The following is a brief summary of activities for 2020.

Just over 1 million Virginians have some type of student loan debt, and the average debt they carry is more than \$39,000. As of October 2020, the three-year loan default rate in Virginia was approximately 8.8%, just below the national average of 9.7%, which has trended downward in the last few years. It should be noted that all federally held loans have been in administrative forbearance since March, possibly contributing to the decreased number of loans entering into default after 270 days of non-payment.

At the Federal Student Aid (FSA) conference in December 2019, U.S. Secretary of Education Betsy DeVos said that the Department of Education considered 43% of student loans to be in “distress.” This means that loans are delinquent or at risk of default, or that borrowers are not paying enough on their loans.

The primary functions of the Student Loan Advocate are to provide assistance to qualified education loan borrowers who reside in the Commonwealth, develop education materials and make policy recommendations based on data collected from Virginia borrowers. Borrowers who are referred to the office are asked to complete the Student Complaint Form, which is located in the middle of the office’s website (schev.edu/studentloan) or in the footer on all SCHEV pages. Once the form is submitted, the Student Loan Advocate contacts the borrower and begins working on the case.

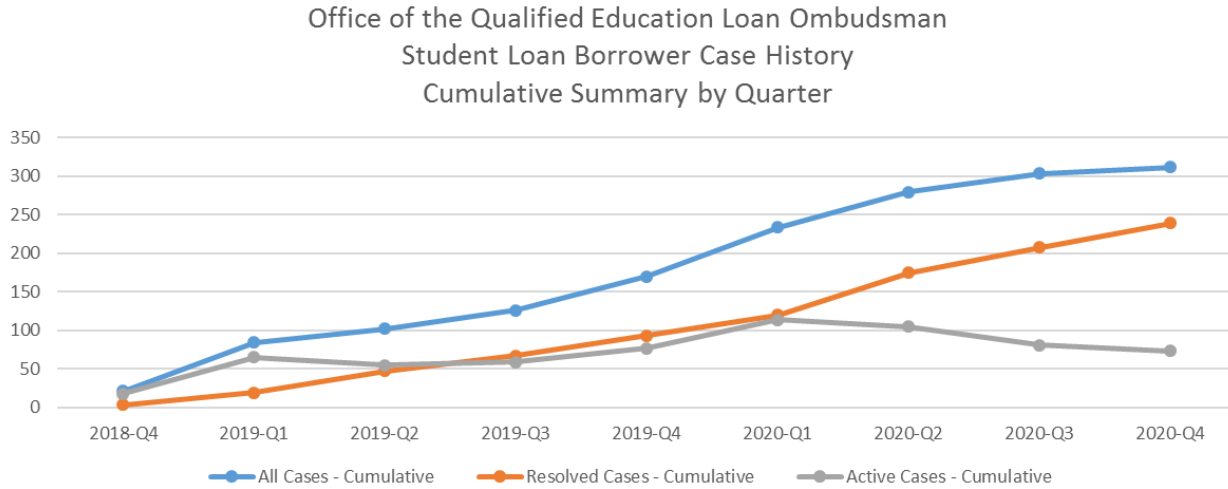
The Student Loan Advocate also continues to receive requests from local and national media outlets for information about trends seen with Virginia education loan borrowers, as well as the impact of the economic crisis created by COVID-19 on Virginians with education loans. Inquiries came from media outlets such as VPM Media Corporation, the Richmond Times-Dispatch, Bloomberg and U.S. News & World Report.

Analysis of Borrower Cases

Since October 2018, the office has handled more than 300 unique cases involving student loans. The chart below illustrates the steady increase in cases during the first two years, along with cases that were resolved.



Table 1: Quarterly Cumulative Summary of 303 Borrowers Served by the Office of the Qualified Education Loan Ombudsman



Cases handled by the Student Loan Advocate show the following self-reported general characteristics:

Table 2: Self-Reported Characteristics of Borrower Concerns Related to their Education Loans

	Most Common	Second Most Common	Other	Not Reported
College Type	Proprietary (32%)	Public (24%)	Private (17%)	26%
Completion Status	Graduated (44%)	Withdrawn (20%)	Current (13%)	23%
Loan Type	Federal (67%)	Private (19%)	Other (14%)	
Degree Program	BA (28%)	Post-BA (21%)	Associates and Certificate. (21%)	30%
Primary Concern (Duplicated Count)	Loan Forgiveness (55%)	College Situation (27%)	School Closure (19%)	Other (21%)

Table 3: Demographics by Age and Amount of Debt

	Average	Range (Minimum)	Range (Maximum)	# Reported
Age of Borrower	45.4 Years	21.8 Years	74.7 Years	66
Borrower Debt	\$73,931	\$2,500	\$525,000	146



Borrowers contacted the office in various ways. Emails sent directly to the Student Loan Advocate were the primary method, followed by submission of the Student Complaint Form (available through the SCHEV website) and phone calls. State legislators, the Governor's office, the Attorney General's office and the Secretary of Education's office also referred borrowers to the program.

With no regulatory authority, the office instead relies on advocating for the borrower. To date, more than 54% of cases have required contact with another entity to better understand the details of a borrower's loan account and to collaborate on the next best steps for the borrower. This includes reaching out to loan servicers in 25% of the cases and to Federal Student Aid (FSA), and the Consumer Financial Protection Bureau (CFPB).

Of the 303 cases as of Dec. 31, 2020, 210 have been resolved. Most were closed after sharing requested information or clarifying the nature of the loan repayment schedules. Some involved borrowers from outside Virginia who were referred to the appropriate state or federal agency. Cases involving current students were referred to other SCHEV departments or Virginia agencies.

The most common service provided to borrowers was helping them better understand their payment plan options –13 repayment plans are currently active. At the top of the list of concerns was the Public Service Loan Forgiveness (PSLF) Program. PSLF allows borrowers who serve in government or a qualifying non-profit to earn debt forgiveness after making 120 qualifying payments. Borrowers contacted the office because they recently learned that they were ineligible for PSLF because they hold the wrong type of repayment plan or the wrong type of loan. For those with the wrong repayment plans, there is a Temporary Expanded PSLF application process that borrowers can seek, but for those with the wrong loans, there is no current solution other than to reconsolidate into a Direct Consolidation Loan and re-start the 120 qualifying payment count.

Cases that remain open the longest are those of borrowers who submitted a Borrower Defense to Repayment (BDR) claim with the FSA office. The BDR claim process allows a borrower to request loan forgiveness if the school did something or failed to do something related to the loan or to the educational services that the loan was intended to provide. Nationally, more than 180,000 cases are pending. FSA recently has begun ruling on these cases. So far, all cases from Virginia have been denied, with minimal explanation for the denial. All of the borrowers who sought BDR assistance from the office have a claim related to a school closure.



Outreach Efforts

One of the roles of the office is to conduct outreach efforts to potential loan borrowers, either by direct contact or indirectly through institutions of higher education or practitioners who work with borrowers. Normal in-person outreach efforts continued until the COVID-19 pandemic. Since March, all presentations have been virtual, including regional training sessions, state conferences and national conferences. These presentations provide information about student loans and serve as a resource for those seeking assistance. Collective attendance at these events was over 800 people. Highlights include:

- SCHEV's Student Advisory Committee (SAC) Presentation: Comprised of student representatives from public and private institutions
- SCHEV's General Professional Advisory Committee (GPAC) Presentation: Comprised of college presidents
- Maggie L. Walker Governor's School for Government and International Studies Parent Teacher Student Association (PTSA) Presentation: Comprised of parents of future college students
- Virginia College Advising Corps (VCAC) Summer Training: College access professionals in over 30 high schools
- Federal Student Aid Ombudsman Caucus Panel on State Student Loan Advocacy: Comprised of FSA staff, state advocates and loan servicer ombudspersons
- National Association of State Student Grant & Aid Program (NASSGAP) Conference Panel on State Student Loan Advocacy: Comprised of loan servicers and loan guarantee agencies
- Virginia College Access Network (VCAN) Fall Training Workshop Presentation: Comprised of school counselors and college access professionals who work with future college students
- SCHEV's Council presentation
- Student Loan Servicing Alliance (SLSA) Conference Panel on State Student Loan Advocacy: Comprised of loan servicers and guarantee agencies
- Virginia College Access Network (VCAN) Conference Presentation: Comprised of college access professionals from multiple organizations that work in Virginia high schools
- National Council of Higher Education Resources (NCHER) Private Education Loan and Consumer Finance Committee Presentation: Comprised of private education loan servicers and collection agencies



Impact of COVID-19 on Student Loan Advocacy

When the COVID-19 pandemic occurred and businesses closed, many borrowers were unable to continue repayment of their education loans. The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided temporary relief for all federally held education loans. SCHEV [created guidance](#) to help borrowers navigate this relief.

Currently, 13 states already have implemented the position of student loan advocate, and many other states are working on similar legislation. For education loans that did not qualify for CARES Act relief, Virginia worked with several other states to advocate for a 90-day disaster forbearance option. All major loan servicers agreed to comply, with the stipulation that interest would accrue during the months of non-payment. SCHEV collaborated with the Governor's office to [announce](#) this option in April. That relief option ran out in July, and most loan servicers refused to offer another 90-day option for borrowers. Instead, some are offering 30-day forbearances with the option to renew at the loan holder's discretion.

In addition to providing relief to borrowers of privately held education loans, the Student Loan Advocate collaborated with other states on two additional projects. The first was an effort to extend an approval process for borrowers who have a permanent disability.

Currently, borrowers who are certified by the U.S. Department of Veterans Affairs as having a permanent disability receive an automatic discharge of their loans. Virginia and other states petitioned the U.S. Social Security Administration to allow the same automatic loan discharge for permanently disabled borrowers who receive Social Security benefits. The request was denied, but it did establish to the U.S. Department of Education that the state student loan advocates are working together to resolve common borrower complaints that need policy solutions.

The second effort was a letter to U.S. Secretary of Education DeVos, asking for an extension of the CARES Act Relief beyond the September 30 deadline. Shortly after the letter was received, an Executive Order extended the relief to December 31.



PLANS FOR THE FUTURE

Policy Recommendations

The Student Loan Advocate analyzes data and identifies trends in borrower complaints in order to provide policy recommendations for legislation that would provide relief to borrowers. In addition to new recommendations for 2021, some policy recommendations from last year were partially resolved. Currently, the state is limited on policy changes to address borrower concerns proactively, but local and state legislators can advocate to the federal government and lobby Virginia's members of the U.S. House of Representatives and U.S. Senate to implement the following policy changes:

1. Federal Servicing Contracts

Initial Recommendation: Advocate for the FSA office to revisit and improve the servicing contract requirements between the federal government and the student loan servicers.

Update: FSA contracted with five new loan servicers and will terminate the contracts of several others, effective fall 2021. In addition, FSA is centralizing its borrower communication and record-keeping processes to better account for the work of loan servicers. Problems have occurred when borrowers switch to a new servicer. This needs to be monitored.

Revised Recommendation: Continue to advocate for improvements in servicing contracts as deemed necessary and monitor the incoming presidential administration's work on all issues affecting Qualified Education Loans.

2. Public Service Loan Forgiveness (PSLF)

Initial Recommendation: Revise the PSLF application and approval process to ensure higher rates of loan forgiveness for eligible borrowers.

Update: FSA is revising the application process so that applying for PSLF and Temporary Expanded Public Service Loan Forgiveness (TEPSLF) involves one application, not two.

Revised Recommendation: The ombudsman's office has seen very few applications accepted and the review takes six to 12 months, so FSA needs to develop a more efficient application review process. Borrowers with the wrong repayment plan need timely relief and the TEPSLF program needs additional funding to help all borrowers in this predicament. In addition, federal legislators need to create a relief program for PSLF borrowers with the wrong type of loan who were not advised to convert to the correct loan.



3. Borrower Defense to Repayment Claim Process

Initial Recommendation: Resolve the more than 180,000 Borrower Defense to Repayment (BDR) claims that mostly are related to school closures. Some claimants have been waiting for more than three years for a decision from FSA.

Update: After an initial court ruling against Secretary DeVos to restart the review of BDR claims, FSA issued denials of all known claims from Virginia with minimal explanation.

Revised Recommendation: As a result of advocacy against the trend toward denying all claims, FSA voluntarily ceased reviewing applications. The BDR review process needs to resume with due diligence being given to all applicants.

4. Annual Loan Counseling and Truth-In-Lending

Initial Recommendation: Require annual loan counseling for students taking out loans, including providing a truth-in-lending statement.

Update: Currently, annual loan counseling is available in select areas. The COVID-19 pandemic has delayed its widespread use.

Revised Recommendation: FSA should continue to implement this annual program. It will help ensure that borrowers understand the long-term impact of how much they owe, what their monthly loan payments will be and how long it will take to pay off their loans.

5. Loan Repayment Plan Options

Initial Recommendation: Simplify repayment plan options to reduce confusion about the payment plan process.

Update: Options for payment plan simplification are included in both proposals for the reauthorization of the federal Higher Education Act.

Revised Recommendation: Continue to advocate for fewer repayment plan options. Reducing the number of options will make it easier for students to choose the best plan for their current situation. In addition, the income-driven repayment plan option should be automated using the IRS Data Retrieval tool to determine payment amounts. Currently, borrowers must submit annual employment forms for review by their loan servicer.



6. Spousal Consolidation Loan

Initial Recommendation: Allow borrowers to separate loans that initially were consolidated through the Spousal Consolidation Loan program. Married couples could combine federal loans into one payment for ease of administration. However, there were no provisions for separating the loan in situations such as divorce or domestic abuse. If one spouse stops paying their share, the other spouse is liable for the entire amount. In addition, these loans are not eligible for any of the loan forgiveness programs, such as PSLF.

Update: Senator Mark Warner co-signed legislation that would address this problem.

Revised Recommendation: Support a legislative change to allow separation of these loans. This would remove the liability of one spouse when the co-owner of the loan stops paying and can lead to loan forgiveness options.

7. Loan Default and Collections

Initial Recommendation: Stop the practice of putting all defaulted loans into collections because it increases the debt load for borrowers and causes other financial restrictions. All federal loans can be rehabilitated out of default once during the life cycle of the loan. However, the loan now has a collection fee added, making the principle amount even larger. Borrowers in financial distress have the option of moving to an income-driven repayment (IDR) plan. In some cases, the payment amount is zero and the government pays the interest on that loan for the first two years if a borrower's income is low enough. As stated earlier, use of the IRS Data Retrieval Tool would ease this process and facilitate moving delinquent loans (missing payments for more than 30 days but less than 270 days) directly into an IDR plan.

Update: None

8. Early Loan Repayment Incentives

Initial Recommendation: Create incentives for borrowers to pay off their loans early. Borrowers looking to fast track the repayment of their loans sooner than the 10-year standard plan should receive incentives in the form of tax breaks or reduced interest if they pay it off early.

Update: None



9. Incentives for Companies Assisting Borrowers with Loan Repayment

Initial Recommendation: Companies that offer to make student loan payments as part of the compensation package offered to a prospective employee should receive tax incentives for those efforts. Currently, there are tax incentives for existing employees who pursue additional training, so this recommendation would make that retroactive to training that the borrower has already received.

Update: None

While this list of policy recommendations requires action at the federal level, the state can assist the work of the Student Loan Advocate in two ways:

- Support collaboration between the licensure and regulatory processes that the State Corporation Commission (SCC) is implementing so that borrowers get assistance with their individual problems, and loan servicers are held accountable for any improper actions. Please see the legislative update later in this report.
- Support the collaboration between the Virginia Department of Education and SCHEV to incorporate the education loan course content into the curriculum for the Economics and Personal Finance Course required of all Virginia high school graduates. This will help ensure that future college students clearly understand the options in funding higher education and the consequences of their decisions.

Legislative Update

During the 2020 General Assembly session, two key pieces of legislation were enacted that affect education loan borrowers in Virginia. The first allows for the licensing of loan servicers (HB10/SB77). The legislation gives the SCC regulatory authority, prohibits certain activities and provides the ability to levy fines for violations. The regulatory authority must be in place by July 1, 2021.

The second requires all students attending Virginia institutions that receive private education loans be given specific private student loan disclosures ([§ 23.1-233.1](#)). The disclosures include sharing the contact information for Virginia's Student Loan Advocate and providing a link to the private education loan information on the SCHEV website. SCHEV will develop the content as part of the education course, and it will be accessible through a direct link on the SCHEV website. The process for sharing the private loan disclosures with students must be in place by July 1, 2021.



THE QUALIFIED EDUCATION LOAN BORROWER EDUCATION COURSE

The Code of Virginia charges the Office of the Qualified Education Loan Ombudsman to create and maintain an online course on education loans that is available to the public and covers key topics.

§ 23.1-233. Qualified education loan borrower education course.

On or before December 1, 2019, the Office of the Qualified Education Loan Ombudsman, in consultation with the Council, shall establish and maintain a qualified education loan borrower education course that shall include educational presentations and materials regarding qualified education loans. Topics covered by the course shall include, but shall not be limited to, key loan terms, documentation requirements, monthly payment obligations, income-driven repayment options, loan forgiveness programs, and disclosure requirements. The course shall be web-based and available to the public at any time. The Office of the Qualified Education Loan Ombudsman may also establish in-person classes.

As the enabling legislation shows, the Qualified Education Loan Borrower education course is intended to provide self-help content and will serve three primary audiences: future loan borrowers wanting to know the benefits and consequences of borrowing for their education, current college students preparing to begin the repayment process, and former students needing assistance with their student loans.

SCHEV initiated a request for proposals to implement the course in late 2019, but after reviewing proposals and expected costs, SCHEV stopped the process because additional funding was needed. SCHEV received the additional funding during the 2020 General Assembly session and released a revised RFP in November 2020. SCHEV expects to make the course available by April 2021. It also will include content related to private education loans, as required by legislation signed during the 2020 General Assembly session. In the interim, SCHEV created web pages on [understanding](#) student loans; [exploring](#) loan repayment plans; [avoiding](#) loan default; and [escaping](#) a loan crisis. It also created a [quick reference guide](#).

SCHEV would like to thank the General Assembly for their continued support of work that impacts the economic stability of Virginia's education loan borrowers. Student loans are a necessary tool that create and expand opportunities for higher education to many students, but the complex nature of student loans makes the work of the Student Loan Advocate vital to borrowers.



APPENDIX

Code of Virginia Authorizing Language

§ 23.1-231. Definitions.

As used in this article, unless the context requires a different meaning:

"Qualified education loan" means any qualified education loan obtained specifically to finance education or other school-related expenses. "Qualified education loan" does not include credit card debt, home equity loan, or revolving debt.

"Qualified education loan borrower" means (i) any current resident of the Commonwealth who has received or agreed to pay a qualified education loan or (ii) any person who shares responsibility with such resident for repaying the qualified education loan.

"Qualified education loan servicer" or "loan servicer" means any person, wherever located, responsible for the servicing of any qualified education loan to any qualified education loan borrower.

"Servicing" means (i) receiving any scheduled periodic payments from a qualified education loan borrower pursuant to the terms of a qualified education loan; (ii) applying the payments of principal and interest and such other payments, with respect to the amounts received from a qualified education loan borrower, as may be required pursuant to the terms of a qualified education loan; and (iii) performing other administrative services with respect to a qualified education loan.

§ 23.1-232. Office of the Qualified Education Loan Ombudsman established; duties.

A. The Council shall create within the agency the Office of the Qualified Education Loan Ombudsman. The Office of the Qualified Education Loan Ombudsman shall provide timely assistance to any qualified education loan borrower of any qualified education loan in the Commonwealth. All state agencies shall assist and cooperate with the Office of the Qualified Education Loan Ombudsman in the performance of its duties under this article.

B. The Office of the Qualified Education Loan Ombudsman shall:

1. Receive, review, and attempt to resolve any complaints from qualified education loan borrowers, including attempts to resolve such complaints in collaboration



with institutions of higher education, qualified education loan servicers, and any other participants in qualified education loan lending;

2. Compile and analyze data on qualified education loan borrower complaints as described in subdivision 1;
3. Assist qualified education loan borrowers to understand their rights and responsibilities under the terms of qualified education loans;
4. Provide information to the public, state agencies, legislators, and other persons regarding the problems and concerns of qualified education loan borrowers and make recommendations for resolving those problems and concerns;
5. Analyze and monitor the development and implementation of federal and state laws and policies relating to qualified education loan borrowers and recommend any changes the Office of the Qualified Education Loan Ombudsman deems necessary;
6. Review the complete qualified education loan history of any qualified education loan borrower who has provided written consent for such review;
7. Disseminate information concerning the availability of the Office of the Qualified Education Loan Ombudsman to assist qualified education loan borrowers and potential qualified education loan borrowers, as well as public institutions of higher education, qualified education loan servicers, and any other participant in qualified education loan lending, with any qualified education loan servicing concerns; and
8. Take any other actions necessary to fulfill the duties of the Office of the Qualified Education Loan Ombudsman as set forth in this article.

§ 23.1-233. Qualified education loan borrower education course.

On or before December 1, 2019, the Office of the Qualified Education Loan Ombudsman, in consultation with the Council, shall establish and maintain a qualified education loan borrower education course that shall include educational presentations and materials regarding qualified education loans. Topics covered by the course shall include, but shall not be limited to, key loan terms, documentation requirements, monthly payment obligations, income-driven repayment options, loan forgiveness programs, and disclosure requirements. The course shall be web-based and available



to the public at any time. The Office of the Qualified Education Loan Ombudsman may also establish in-person classes.

§ 23.1-233.1. (Effective July 1, 2021) Qualified education loans; certain providers; contact information and summary.

Any provider of private education loans, as defined in 12 C.F.R. § 1026.46(b)(5), shall disclose to any student attending an institution of higher education in the Commonwealth, prior to issuing a qualified education loan to such student, the contact information for the Office of the Qualified Education Loan Ombudsman and a summary of the student loan information applicable to private education loans that may be found on the Council's website. Any such disclosure may be made in conjunction with or incorporated into another disclosure to such student prior to issuing the qualified education loan. The summary shall be developed by the Office of the Qualified Education Loan Ombudsman in consultation with relevant stakeholders.

§ 23.1-234. Reports.

On or before January 1, 2019, and annually thereafter, the Council shall submit a report to the House Committees on Commerce and Labor and Education and the Senate Committees on Commerce and Labor and Education and Health. The report shall address (i) the implementation of this article and (ii) the overall effectiveness of the Office of the Qualified Education Loan Ombudsman.

