

[DISCUSSION DRAFT]

116TH CONGRESS
1ST SESSION

H. R. _____

To []

IN THE HOUSE OF REPRESENTATIVES

Ms. SHALALA introduced the following bill; which was referred to the
Committee on _____

A BILL

To []

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 “Protecting Student Aid
5 Act of 2019” of the “PSA Act”.

6 **SEC. 2. IMPROVEMENTS TO THE FEDERAL STUDENT AID**

7 **OFFICE.**

8 Section 141 of the Higher Education Act of 1965 (20
9 U.S.C. 1018) is amended—

1 (1) by redesignating subsection (i) as subsection
2 (k); and

3 (2) by inserting after subsection (h) the fol-
4 lowing:

5 “(i) ENFORCEMENT UNIT.—

6 “(1) IN GENERAL.—Not later than 180 days
7 after the date of enactment of Protecting Student
8 Aid Act of 2019, the Secretary shall establish within
9 the PBO an enforcement unit (referred to in this
10 section as the ‘Unit’) to review and investigate viola-
11 tions of this Act and recommend enforcement ac-
12 tions in accordance with paragraph (3).

13 “(2) CHIEF ENFORCEMENT OFFICER.—

14 “(A) APPOINTMENT.—The Secretary shall
15 appoint an official to be known as the ‘Chief
16 Enforcement Officer’ who shall serve as the
17 head of the Unit. The Secretary shall appoint
18 an individual to serve as the Chief Enforcement
19 Officer solely on the basis of such individual’s
20 integrity and expertise in law and investigations
21 and without regard to such individual’s political
22 affiliation.

23 “(B) AUTHORITY.—The Chief Enforce-
24 ment Officer shall report directly to the Sec-
25 retary without being required to report through

1 any other official of the Department of Edu-
2 cation.

3 “(C) TERM.—The Chief Enforcement Offi-
4 cer shall be appointed for a term of 6 years and
5 may be reappointed for additional terms of 6
6 years at the discretion of the Secretary.

7 “(D) REMOVAL.—

8 “(i) IN GENERAL.—The Chief En-
9 forcement Officer may not be removed dur-
10 ing the Officer’s term except for cause.

11 “(ii) NOTICE TO CONGRESS.—If the
12 Secretary removes the Chief Enforcement
13 Officer before the expiration of the Offi-
14 cer’s term, the Secretary shall submit to
15 the authorizing committees a report that
16 explains the reasons for such removal. The
17 report shall be submitted to the author-
18 izing committees not later than 30 days
19 after the date on which the removal takes
20 effect.

21 “(3) DUTIES.—The Chief Enforcement Officer
22 shall have the following duties:

23 “(A) Receive, process, and analyze allega-
24 tions that a covered entity has violated Federal

1 law or has engaged in unfair, deceptive, or abu-
2 sive practices.

3 “(B) Review and investigate such allega-
4 tions.

5 “(C) After reviewing and investigating an
6 allegation under subparagraph (B), in consulta-
7 tion with the Chief Operating Officer—

8 “(i) if the covered entity subject to
9 such allegation is an entity described in
10 clause (i) or (iii) of paragraph (8)(A),
11 make recommendations with respect to
12 such covered entity, including—

13 “(I) whether such covered entity
14 should be limited, suspended, or ter-
15 minated from participation in one or
16 more programs under title IV;

17 “(II) whether such covered entity
18 should be subject to an emergency ac-
19 tion under section 487(c)(1)(G); or

20 “(III) a combination of any of
21 the actions described in clauses (II)
22 and (III);

23 “(ii) if the covered entity subject to
24 such allegation is an entity described in
25 clause (ii) of paragraph (8)(A), make rec-

1 ommendations with respect to such covered
2 entity, including whether such covered en-
3 tity should be limited, suspended, or termi-
4 nated from administering or providing
5 services with respect to one or more pro-
6 grams under title IV; and

7 “(iii) provide the Secretary with such
8 recommendations.

9 “(4) SECRETARIAL REVIEW AND ACTION.—
10 After receiving notice of a determination of the Chief
11 Enforcement Officer under paragraph (4)(C), the
12 Secretary shall decide whether or not to pursue en-
13 forcement action against the entity concerned. In a
14 case in which the Chief Enforcement Officer rec-
15 ommends enforcement action against an entity, but
16 the Secretary decides not to pursue such enforce-
17 ment action, the Secretary shall notify the Chief En-
18 forcement Officer, in writing, of the rationale for
19 such decision.

20 “(5) COORDINATION AND STAFFING.—The
21 Chief Enforcement Officer shall—

22 “(A) coordinate with relevant Federal and
23 State agencies and oversight bodies; and

24 “(B) hire staff with the expertise necessary
25 to conduct investigations, respond to allegations

1 against covered entities, and enforce compliance
2 with laws governing Federal student financial
3 assistance programs under title IV.

4 “(6) INFORMATION SHARING.—The Chief En-
5 forcement Officer shall develop and implement a
6 process for sharing relevant information about alle-
7 gations against covered entities with—

8 “(A) the Student Loan Oubdsman ap-
9 pointed under subsection (f);

10 “(B) personnel of the Department on re-
11 sponsible for processing borrower defense
12 claims submitted under section 455(h);

13 “(C) other relevant Federal agencies;

14 “(D) States, including State law enforce-
15 ment and regulatory agencies; and

16 “(E) recognized accrediting agencies or as-
17 sociations.

18 “(7) REPORT TO CONGRESS.—On an annual
19 basis, the Chief Enforcement Officer shall submit to
20 the authorizing committees a report that includes—

21 “(A) the number of allegations about cov-
22 ered entities received by Unit in the year cov-
23 ered by the report;

24 “(B) the number of such allegations inves-
25 tigated by the Unit;

1 “(C) the number of such allegations that
2 were referred to the Secretary under paragraph
3 (4)(C) and a summary of any action taken by
4 the Secretary with respect to such allegations;

5 “(D) the number of such allegations that
6 were referred to other Federal agencies and the
7 names of the agencies to which the allegations
8 were referred; and

9 “(E) the number of such allegations that
10 remain under review or investigation as of the
11 date of the report.

12 “(8) DEFINITIONS.—In this subsection:

13 “(A) COVERED ENTITY DEFINED.—In this
14 subsection, the term ‘covered entity’ means—

15 “(i) an institution of higher education
16 (as defined in section 102) that partici-
17 pates in the Federal student financial as-
18 sistance programs authorized under title
19 IV;

20 “(ii) a contractor that contracts with
21 the PBO to provide services relating to
22 such programs, or a subcontractor of such
23 contractor; or

24 “(iii) a third party servicer.

1 “(B) THIRD PARTY SERVICER.—the term
2 ‘third party servicer’ has the meaning given
3 that term in section 481(c).”.

4 **SEC. 3. DEFINITION OF THIRD PARTY SERVICER.**

5 Section 481(c) of the Higher Education Act of 1965
6 (20 U.S.C. 1088(c)) is amended—

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

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