

# HOUSE BILL NO. 5603

March 10, 2020, Introduced by Reps. Reilly, Hornberger, Leutheuser, Sneller and Jones and referred to the Committee on Education.

A bill to create the office of the higher education ombudsman; and to prescribe the powers and duties of the office, the ombudsman, and certain other state governmental officers and entities.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           Sec. 1. This act shall be known and may be cited as the  
2 "oversight of higher education act".

3           Sec. 2. As used in this act:

4           (a) "Administrative act" includes an action, omission,  
5 decision, recommendation, practice, or other procedure of the



1 governing board of a public university.

2 (b) "Complainant" means a legislator, or a current or former  
3 student or member of the faculty or staff of a public university,  
4 who files a complaint under section 5.

5 (c) "Department" means the department of education.

6 (d) "Legislator" means a member of the senate or the house of  
7 representatives of this state.

8 (e) "Office" means the office of the higher education  
9 ombudsman created under this act.

10 (f) "Ombudsman" means the higher education ombudsman.

11 (g) "Public university" means an institution of higher  
12 education described in section 4, 5, or 6 of article VIII of the  
13 state constitution of 1963.

14 Sec. 3. (1) The office of the higher education ombudsman is  
15 created within the department.

16 (2) The principal executive officer of the office is the  
17 higher education ombudsman, who is appointed by and serves at the  
18 pleasure of the governor.

19 (3) The office shall serve as a resource for students,  
20 faculty, and staff to report problems with a public university or  
21 any of its employees, agents, or officials. The office may assist,  
22 through mediation or other voluntary action, individuals and  
23 organizations with resolving conflicts they may have with an agent  
24 of a public university. The office shall coordinate with the United  
25 States Department of Justice, the department, the attorney general  
26 of this state, and other relevant agencies and shall and refer  
27 cases when appropriate.

28 Sec. 4. The department shall establish procedures for  
29 approving the budget of the office, for expending funds of the



1 office, and for the employment of personnel for the office.

2       Sec. 5. (1) The ombudsman may commence an investigation upon  
3 his or her own initiative or upon receipt of a complaint from a  
4 complainant concerning an administrative act or an allegation of a  
5 civil rights violation, sexual misconduct, or any other violation  
6 of the law for which a public university or any of its employees,  
7 agents, or officials, acting in the scope of their duties, may be  
8 directly or indirectly responsible. The ombudsman may interview any  
9 individual whom the ombudsman considers necessary in an  
10 investigation, including, but not limited to:

11       (a) An individual employed by or retained under contract by a  
12 public university.

13       (b) A past, present, or prospective student of a public  
14 university.

15       (2) Subject to approval of the department, the ombudsman shall  
16 establish procedures for receiving and processing complaints,  
17 conducting investigations, holding hearings, and reporting the  
18 findings resulting from the investigations.

19       Sec. 6. (1) Upon request and without the requirement of any  
20 release, a public university shall provide the ombudsman access to  
21 all information, records, and documents in the possession of the  
22 public university that the ombudsman considers necessary in an  
23 investigation.

24       (2) Upon request and without notice, a public university shall  
25 grant the ombudsman entrance to inspect at any time the premises of  
26 the public university.

27       (3) The ombudsman may hold informal hearings and may request  
28 that any person appear before the ombudsman or at a hearing and  
29 give testimony or produce documentary or other evidence that the



1 ombudsman considers relevant to an investigation.

2       Sec. 7. (1) Upon the request of the ombudsman, a public  
3 university shall provide a progress report concerning the  
4 administrative processing of a complaint. After administrative  
5 action on a complaint, the ombudsman may conduct further  
6 investigation on the request of a complainant or on his or her own  
7 initiative.

8       (2) The ombudsman is not required to conduct an investigation  
9 or hold a hearing on a complaint brought before the ombudsman.

10       Sec. 8. Upon receiving a complaint under section 5 and  
11 deciding to investigate the complaint, within 10 business days the  
12 ombudsman shall notify the complainant. If the ombudsman declines  
13 to investigate, the ombudsman shall notify the complainant within  
14 10 business days, in writing, and inform the complainant of the  
15 reasons for the ombudsman's decision.

16       Sec. 9. Upon request of the ombudsman, the department may hold  
17 a hearing. The department may administer oaths, subpoena witnesses,  
18 and examine the books and records of a public university in a  
19 matter that is or was a proper subject of investigation by the  
20 ombudsman.

21       Sec. 10. (1) Correspondence between the ombudsman and a  
22 complainant is confidential and is privileged communication.

23       (2) A report prepared and recommendations made by the  
24 ombudsman and submitted to the department under section 11 and any  
25 record of the ombudsman are exempt from disclosure under the  
26 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

27       Sec. 11. (1) The ombudsman shall prepare and submit a report  
28 of the findings of an investigation and make recommendations to the  
29 department within 10 business days after completing the



1 investigation if the ombudsman finds any of the following:

2 (a) A matter that should be considered by the governing board  
3 of a public university.

4 (b) An administrative act that should be modified or canceled.

5 (c) Administrative acts for which justification is necessary.

6 (d) Significant health and safety issues for students  
7 attending a public university.

8 (e) Any other significant concerns.

9 (2) Subject to section 12, the department shall forward the  
10 report prepared and submitted under this section to the public  
11 university and to the complainant who requested the report.

12 Sec. 12. Before submitting a report with a conclusion or  
13 recommendation that expressly or by implication criticizes a person  
14 or a public university, the ombudsman shall consult with that  
15 person or the governing board of that public university. When  
16 publishing an opinion adverse to a person or public university, the  
17 ombudsman shall include in that publication a statement of  
18 reasonable length made to the ombudsman by that person or the  
19 governing board of that public university in defense or mitigation  
20 of the finding if that statement is provided within a reasonable  
21 period of time as determined by the department. The ombudsman may  
22 request to be notified by a person or the governing board of a  
23 public university, within a specified time, of any action taken on  
24 any recommendation presented. The ombudsman shall notify the  
25 complainant of the actions taken by the person or the governing  
26 board of the public university.

27 Sec. 13. The ombudsman shall submit to the department and the  
28 legislature an annual report on the conduct of the office. A report  
29 under this section must include all of the following information



1 for each public university during the immediately preceding 12  
2 months, at a minimum:

3 (a) The number of complaints received and demographic  
4 information of complainants, persons accused, and other involved  
5 parties.

6 (b) The number of complaints concerning each of the following  
7 categories:

8 (i) The modification or cancellation of, or justification for,  
9 an administrative act.

10 (ii) Significant student health issues.

11 (iii) Significant student safety issues.

12 (c) The number of complaints resulting in the initiation of an  
13 investigation.

14 (d) The number of investigations initiated by the ombudsman,  
15 categorized by the nature of the underlying complaint.

16 (e) The number of hearings.

17 (f) The number of reports of findings issued.

18 Sec. 14. (1) The office shall compile a campus climate survey  
19 every 3 years and report its findings to the legislature.

20 (2) The campus climate survey is an anonymous survey issued to  
21 at least 20% of all students, 20% of all staff, and 20% of all  
22 faculty at each public university, chosen at random.

23 (3) The campus climate survey must include questions on the  
24 quality of classroom experiences, usage of student services, crimes  
25 committed on campus, student demographics, discrimination, and  
26 other questions to be determined by the ombudsman.

27 Sec. 15. (1) A public university shall not penalize in any way  
28 a student, employee, agent, or official who communicates a  
29 complaint to a legislator or cooperates with the ombudsman in



1 investigating a complaint.

2 (2) A public university or an employee, agent, or official of  
3 a public university shall not hinder the lawful actions of the  
4 ombudsman or employees of the office or willfully refuse to comply  
5 with any lawful demand of the office.

6 Sec. 16. The authority granted the ombudsman under this act is  
7 in addition to the authority granted under any other act or rule  
8 under which a remedy or right of appeal or objection is provided  
9 for a complainant, or any procedure provided for the inquiry into  
10 or investigation of any matter concerning a public university. The  
11 authority granted the ombudsman under this act does not limit or  
12 affect any other remedy or right of appeal or objection and is not  
13 exclusionary of any other remedy or right of appeal or objection.

