

D.C. issues second revision to student loan servicing regulations

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The District of Columbia Department of Insurance, Securities, and Banking (DISB) has issued a second round of [revised emergency and proposed rules](#) under the Student Loan Ombudsman Establishment and Servicing Regulation Amendment Act of 2016. The latest revision, backdated to April 20 from its May release, provides “numerous substantive changes” in response to public comments. A blackline of the revised emergency rules showing changes from the rules adopted in December 2017 [can be found here](#). The Student Loan Servicing Alliance [filed a lawsuit](#) in March 2018 challenging the rules as preempted by federal law.

The [first revision](#) made one substantive change from the initial rules by reducing the annual assessment fee from \$6.60 per loan to \$.50 per borrower. The second revision further modifies the annual assessment fee by eliminating the additional “fixed” component. Now, licensees are subject only to the volume-based assessment. Application fees (initial and renewal) and reinstatement fees have also been reduced by \$100.

For the first time, the proposed rules explicitly acknowledge and yield to federal law. The DISB recordkeeping rules now apply “[e]xcept to the extent prohibited by federal law” and allow the Commissioner to “waive or reduce” the requirements if compliance “would require the licensee to violate federal law.” The revisions also add protections by prohibiting public disclosure of the records under the Freedom of Information Act.

Unlike the recordkeeping provisions, the examination authority contains no deference to federal law. The examination authority has also been expanded to allow the Commissioner to consider reports prepared by other federal or state agencies in conducting an examination and to conduct joint examinations with federal or state agencies. The rules now also explicitly allow the Commissioner to request “policies and procedures, consumer complaints, financial statements, and any other reasonable information.”

Most significantly, the revisions have eliminated the initial penalty provisions, which allowed the Commissioner to impose a penalty of up to \$5,000 “for each occurrence of each violation of the act” by a licensee and up to \$25,000 “for each occurrence of each violation of the act” by an unlicensed person. The revisions have also reduced the penalty for failure to timely file an annual report from up to \$1,000 per business day to up to \$50 per day.

The revised rules also expand the oversight of the DISB. The rules now require updating of any information on file with the commissioner within ten business days of it become inaccurate. Additionally, licensees must now notify the Commissioner in writing of “any material fact or condition” which may preclude the licensee from fulfilling its contractual obligations.

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