

RCW 31.04.405 Requirements for a student education loan servicer
~~—Borrower request for information—Transfer of service rights—Records~~
~~—Rules—Director's obligations.~~ (1) In addition to complying with any applicable federal program requirements, a student education loan servicer must comply with the following requirements:

(a) Any fee that is assessed by a servicer must be assessed within forty-five days of the date on which the fee was incurred and must be explained clearly and conspicuously in a statement mailed to the borrower at the borrower's last known address no more than thirty days after assessing the fee, or provided via email if the borrower has assented to receive electronic communications;

(b) All amounts received by a servicer on a student education loan at the address where the borrower has been instructed to make payments must be accepted and credited, or treated as credited, within one business day of the date received, provided that the borrower has provided sufficient information to credit the account. If a servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date must be credited no later than the due date. If any payment is received and not credited, or treated as credited, the borrower must be notified of the disposition of the payment within ten business days by mail at the borrower's last known address. The notification must identify the reason the payment was not credited or treated as credited to the account, as well as any actions the borrower must take to make the student education loan current;

(c) The servicer must make reasonable attempts to comply with a borrower's request for information about the student education loan account and to respond to any dispute initiated by the borrower about the loan account. The servicer:

(i) Must maintain written or electronic records of each written request for information regarding a dispute or error involving the borrower's account until the student education loan is paid in full, sold, or otherwise satisfied; and

(ii) Must provide a written statement to the borrower within fifteen business days of receipt of a written request from the borrower. The borrower's request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and sufficient detail regarding the information sought by the borrower to permit the servicer to comply. At a minimum, the servicer's response to the borrower's request must include the following information:

(A) Whether the account is current or, if the account is not current, an explanation of the default and the date the account went into default;

(B) The current balance due on the student education loan, including the principal due, the amount of funds, if any, held in a suspense account, if any, and whether there are any shortages known to the servicer;

(C) The identity, address, and other relevant information about the current holder, owner, or assignee of the student education loan; and

(D) The telephone number and mailing address of a servicer representative with the information and authority to answer questions and resolve disputes;

(d) Promptly correct any errors and refund any fees assessed to the borrower resulting from the servicer's error; and

(e) In the event that a borrower applies for or attempts to certify progress toward a discharge or refund of amounts paid on their federal student education loans with the United States department of education, the servicer must provide explanations to the borrower on any decision made with respect to their application.

(2) In addition, a borrower may request more detailed information from a servicer, and the servicer must provide the information within fifteen business days of receipt of a written request from the borrower. The request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and provide sufficient detail to the servicer regarding information sought by the borrower. If requested by the borrower this statement must include:

(a) A copy of the original note, or if unavailable, an affidavit of lost note; and

(b) A statement that identifies and itemizes all fees and charges assessed under the loan transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the student education loan including suspense account activity, if any. The period of the account history must cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the servicer has not serviced the student education loan for the entire two-year time period the servicer must provide the information going back to the date on which the servicer began servicing the loan, and identify the previous servicer, if known. If the servicer claims that any delinquent or outstanding sums are owed on the loan prior to the two-year period or the period during which the servicer has serviced the student education loan, the servicer must provide an account history beginning with the month that the servicer claims any outstanding sums are owed on the student education loan up to the date of the request for the information. The borrower may request annually one statement free of charge.

(3) When acquiring servicing rights from another servicer, a receiving servicer must:

(a) Notify the student education loan borrowers no more than sixty days and no less than forty-five days before the effective date of the transfer of the students' loans to provide them with:

(i) The effective date of the transfer of servicing, and the date at which the receiving servicer will begin to accept payments relating to the loan, if different;

(ii) The name, address, and toll-free telephone number for both the transferring and receiving servicers' designated points of contact at which the borrower can obtain answers to inquiries;

(iii) A statement that the transfer of servicing does not affect any term or condition of the student education loan other than the entity servicing the loan;

(iv) Information about how to obtain a payment history from both the transferring or receiving servicer, including a count of payments that qualify toward any forgiveness options, as applicable;

(v) A notification indicating whether an alternative repayment plan or loan consolidation application is pending; and

(vi) Information about how to appropriately direct and submit a complaint to the United States department of education, the student loan advocate, federal student loan ombuds, and other relevant federal

agencies that collect borrower complaints, in the event of a servicing error;

(b) Continue processing loan modification requests, including applications for income-driven repayment, loan forgiveness, or loan consolidation, received by the receiving servicer or the transferring servicer during the transfer process; and

(c) Retain records necessary to maintain the borrower's uninterrupted enrollment in their existing repayment plan.

(4) When transferring or selling the servicing of loans a transferring servicer must:

(a) Notify the student education loan borrowers no more than sixty days and no less than forty-five days before the effective date of the transfer of the students' loans to provide them with:

(i) The effective date of the transfer of servicing, and the date at which the transferring servicer will no longer accept payments relating to the loan, if different;

(ii) The name, address, and toll-free telephone number for the transferring and receiving servicers' designated points of contact at which the borrower can obtain answers to inquiries; and

(iii) A statement that the transfer of servicing does not affect any term or condition of the student education loan other than the entity servicing the loan; and

(b) Inform the receiving servicer if a loan modification request is pending.

(5) Licensees shall provide, free of charge on the licensee's website, information or links to information regarding repayment and loan forgiveness options that may be available to borrowers, as well as the availability of the student loan advocate to provide assistance. This information or these links shall be prominently placed and provided via written correspondence or email with the borrower at least once per calendar year.

(6) In addition to keeping records in compliance with this chapter and RCW 28B.77.007, licensees shall collect, maintain, and report to the department specific information about the loans in the licensee's portfolio. Such information shall include, but not be limited by: Loan volume, default, refinance and modification information, loan type (subsidized, deferred, etc.) information, and collection practices.

(7) The director may adopt all rules necessary to implement this section. The director may, at his or her discretion, waive applicability of the provisions of this section when the director determines it necessary to facilitate commerce and protect consumers.

(8) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2018 c 62 § 6.]