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LEGISLATIVE RESEARCH COMMISSION

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Majority Whip
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MEMORANDUM

TO: Catherine Falconer, General Counsel, Department of Financial Institutions

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 808 KAR 016:010 & 808 KAR 016:020.

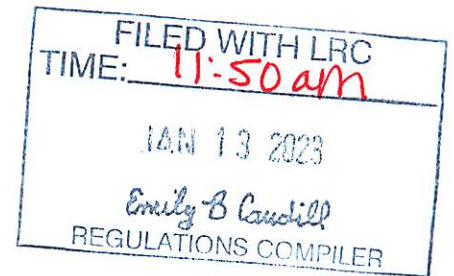
DATE: January 13, 2023

A copy of each administrative regulation listed above is enclosed for your files. These regulations are tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **APRIL 2023** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, *if* comments are received during the public comment period, a Statement of Consideration or a one-month extension request for these regulations is due **by noon on April 14, 2023**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures



1 PUBLIC PROTECTION CABINET
2 Kentucky Department of Financial Institutions
3 Student Education Loan Servicers
4 (New Administrative Regulation)
5 808 KAR 16:010. Licensing, Registration, Renewals and Fees
6 RELATES TO: KRS 286.12-030, 286.12-040, 286.12-060, 286.12-070
7 STATUTORY AUTHORITY: KRS 286.1-011, 286.1-020, KRS 286.12-030
8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-020(1) authorizes the
9 commissioner to promulgate, amend, and repeal any administrative regulations, forms, and
10 orders as are necessary to interpret and carry out the provisions and intent of this chapter.
11 KRS 286.12-030(2)(a) authorizes the commissioner to prescribe the form and materials
12 required to apply for a license under KRS Chapter 286.12. This administrative regulation
13 establishes licensing and registration requirements for student education loan servicers and
14 procedures for using the Nationwide Multistate Licensing System (NMLS).
15 Section 1. Definitions
16 (1) “Applicant” is defined by KRS 286.12-010(2).
17 (2) “Commissioner” is defined by KRS 286.1-010(1).
18 (3) “Department” is defined by KRS 286.1-010(2).
19 (4) “Federal student education loan” is defined by KRS 286.12-020(1).
20 (5) “Student education loan servicer” and “servicer” are defined by KRS 286.12-010(13).
21 Section 2. Initial Application and Notice:

1 (1) A person providing notice to the commissioner as a federal student education loan
2 servicer doing business in Kentucky prior to December 31, 2022, shall submit:

3 (a) A completed NMLS Company Form available online at
4 <http://mortgage.nationwidelicensingsystem.org>; and

5 (b) A completed NMLS Individual Form available online at
6 <http://mortgage.nationwidelicensingsystem.org>;

7 (2) Non-federal student education loan servicers, federal student education loan servicers
8 that also service non-federal student education loans, and federal student education loan
9 servicers that begin conducting business in Kentucky after December 31, 2022, shall submit:

10 (a) A completed NMLS Company Form available online at
11 <http://mortgage.nationwidelicensingsystem.org>; and

12 (b) A completed NMLS Individual Form available online at
13 <http://mortgage.nationwidelicensingsystem.org>;

14 (c) All documents required on the New Application Checklist available online at
15 <http://mortgage.nationwidelicensingsystem.org>;

16 (d) Either:

17 1. An audited financial statement prepared by a certified public accountant (CPA), in
18 accordance with generally accepted accounting principles (GAAP), verifying a minimum net
19 worth of at least two hundred and fifty thousand dollars (\$250,000); or

20 2. The following CPA prepared financial statements, if such request is made by the applicant
21 and is deemed reasonable by the Commissioner based on the size, structure, and complexity
22 of the applicant:

23 a. A Reviewed financial statement; or

24 b. A Compiled financial statement;

1 (e) An Electronic Surety Bond online at <http://mortgage.nationwidelicensingsystem.org>,

2 which shall:

3 1. Include the name of the principal insured, which shall match the full legal name of

4 applicant;

5 2. Be to the benefit of the department; and

6 3. Be in an amount of the lessor of:

7 a. One hundred thousand dollars (\$100,000.00); or

8 b. .01% (.0001) of the amount of the Kentucky servicing portfolio; and

9 (f) A nonrefundable investigation fee of five thousand dollars (\$5,000.00).

10 Section 3. Renewal Applications - All Licensees.

11 (1) A licensee applying for an annual renewal of a student education loan servicer license,

12 on or before December 31st, shall:

13 (a) Submit required updates and attestations verifying that all information in the licensee's

14 record, maintained in the NMLS operated by the State Regulatory Registry, LLC, is correct

15 and available online at <http://mortgage.nationwidelicensingsystem.org>; and

16 (b) Pay the annual assessment fee to be established by commissioner's order pursuant to

17 KRS 286.12-070(2). The minimum assessment fee shall be five thousand dollars (\$5,000)

18 and the maximum assessment fee shall be twenty thousand dollars (\$20,000).

19 (2) A licensee applying to reinstate a student education loan servicer license after

20 December 31st shall:

21 (a) Submit all fees and materials required by subsection (1) of this section; and

22 (b) Pay a late filing fee in the amount of one thousand dollars (\$1,000) on or before January 31st of the

23 following year that the renewal application was due.

1 (3) The commissioner shall not accept an application for renewal or reinstatement when
2 the application, fees, or any required information is not received on or before January 31st
3 of the following year that the renewal application was due. Failure to complete the renewal
4 or reinstatement application of a license shall cause the license to automatically expire as of
5 February 1st by operation of law.

6 Section 4. Change of address, name, control, or agent for service-All Licensees.

7 (1) A licensee that intends to change its address, name, or agent for service of process shall
8 notify the commissioner in writing at least:

9 (a) Ten (10) days prior to the change of address or name; and

10 (b) Five (5) days prior to the change of agent for service of process.

11 (2) A licensee that intends to file for a change of control, as defined by KRS 286.12-010(6),
12 shall notify the commissioner in writing thirty (30) days prior to the effective date of the
13 change of control and shall submit:

14 (a) For an existing licensee acquiring another licensee, a change of control fee of one
15 thousand dollars (\$1,000); or

16 (b) For all non-licensed entities, a change of control fee of five thousand dollars (\$5,000).

17 (3) A licensee changing its address, name, control, or agent for service of process shall update
18 this information in NMLS within the same time periods set forth in this section.

19 Section 5. Annual Report - All Licensees.

20 Each licensee shall file an annual report electronically with the commissioner, on Form
21 SLSCR-Student Loan Servicer Call Report, on or before November 1st of each year.

22 Section 6. Electronic Submission of Filings and Fees through the Nationwide Multistate
23 Licensing System Operated by the State Regulatory Registry, LLC.

1 (1) A person applying for licensure, registration, renewal, or reinstatement pursuant to
2 Sections 2, 3, and 4 of this administrative regulation shall electronically submit the
3 following to NMLS, at <http://mortgage.nationwidelicencingsystem.org> , as part of the
4 nationwide multi-state licensing system:

5 (a) All forms, updates, attestations, reports, and documentation required by Sections 2, 3,
6 and 4 of this administrative regulation, as applicable; and

7 (b) All fees referenced in this administrative regulation.

8 (2) Any fees assessed by NMLS, to process the electronic submissions referenced in
9 subsection (1) and (2) of this section shall be paid by the applicant.

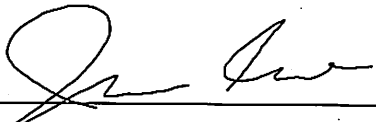
10 Section 7. Incorporation by Reference.

11 (1) "SLSCR-Student Loan Servicer Call Report", January 2023, is incorporated by reference.

12 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law,
13 at the Department of Financial Institutions, 500 Mero St 2SW19, Frankfort, Kentucky 40601,
14 Monday through Friday, 8 a.m. to 5 p.m. This material may also be obtained from the
15 Department's website at <http://www.kfi.ky.gov>.

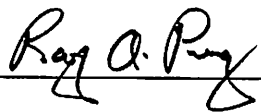
808 KAR 16:010

READ AND APPROVED BY



Justin Burse, Acting Commissioner
Department of Financial Institutions

1/13/2023
DATE



Ray Perry, Secretary
Public Protection Cabinet

1/13/2023
DATE

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

Kentucky Department of Financial Institutions
808 KAR 16:010 Licensing, Registration, Renewals and Fees.

A public hearing on this administrative regulation shall be held on March 28, 2023, at 2:00 PM, at 500 Mero Street, Frankfort, KY 40601.

Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Catherine Falconer
Title: General Counsel
Address: 500 Mero Street, 2SW19
Frankfort, KY 40601
Phone: 502-782-9052
Fax: 502-573-8787
Email: Catherine.Falconer@ky.gov

Contact Person: Marni Gibson
Title: Acting Deputy Commissioner, Dept. of Financial Institutions
Address: 500 Mero Street, 2SW19
Frankfort, KY 40601
Phone: 502-782-9053
Fax: 502-573-8787
Email: Marni.Gibson@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 808 KAR 16:010

Contact Person: Catherine Falconer
Title: General Counsel
Address: 500 Mero Street, 2SW19
Frankfort, KY 40601
Phone: 502-782-9052
Fax: 502-573-8787
Email: Catherine.Falconer@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes licensing and registration requirements for student education loan servicers and procedures for using the Nationwide Multistate Licensing System, (NMLS).

(b) The necessity of this administrative regulation:

KRS 286.12 was a new statute enacted in the 2021-2022 legislative session. These regulations set forth the requirements and procedures for student loan servicers to file for licensing and registration, to provide notice of required fees, and to incorporate forms utilized by the Department to process applications.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation conforms to the requirements of KRS 286.12-030 by providing notice of the procedure for filing an application for a license. This administrative regulation conforms to the requirements of KRS 286.12-040 by providing guidance related to the required information to be submitted to the Department for approval of an application and submissions for a change of control request. This administrative regulation conforms to the requirements of KRS 286.12-060 for notice and requirements related to the submission of information and reports necessary for the Department to complete an application review or renewal for regulatory oversight. This administrative regulation conforms to the requirements of KRS 286.12-070 to provide notice of the calculation of assessment fees and requirements to the servicer related to submission of reports for renewals of licenses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation will assist the Department in maintaining oversight of the student loans servicers industry by requiring licensure for servicers and by monitoring activities related to customer accounts of Kentucky citizens.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new regulation

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation effects all student loan servicers that have accounts for Kentucky citizens. The exact number of individuals and businesses affected by this regulation will fluctuate depending upon the number of servicers and status of the loans in a given year. Currently there are 74 entities licensed in NMLS as student education loan servicers that would be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: All industry participants are required to be licensed or to qualify for an exemption from licensure. Regulated entities will need to submit applications with the corresponding required information and fees in order for DFI to review and make a determination of their license application or renewal. The applications for licensure, and renewal for licensure, require the submission of specific reports and information into the national database system, NMLS, which compiles licensure information for all fifty states.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The costs for servicers would be part of their regular internal record keeping and administrative activities. Servicers will be required to file appropriate forms and records with the Department, submit an investigative fee of \$5,000.00 for a new application, submit a renewal fee of no less than \$5,000.00 and no more than \$20,000.00, and maintain a bond, if applicable.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals will have the benefit of the entities regulatory compliance with specific areas of student loan account management including accurate record keeping for accounts, maintaining communication with account servicers and borrowers, and added protections of notice and information sharing for changes in account status of account holder information including participation in government loan forgiveness or payment adjustment programs. Servicers will have notice of requirements and procedures to comply with the statute and regulations that apply universally to all servicers operating in Kentucky. The regulation establishes requirements and procedures related to the national database for submission of records, payments, and information related to account activities and customer service.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Initially, there is no additional costs to the Department to implement the new regulations. The Department will utilize current staff to process these applications and maintain reviews of submissions through the national database.

(b) On a continuing basis: The Department anticipates needing dedicated staff to conduct regulatory functions in subsequent years. At that time, the anticipated costs to the Department will include a one-time expense for employee equipment of approximately \$20,000.00, thereafter approximately \$482,000.00 per year for salary, benefits, and travel costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Revenue will be generated through submission of registration, renewal, and other fees to the Department.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This new regulation sets the fees that student education loan servicers will be assessed at renewal at no less than \$5,000.00 and no more than \$20,000.00. The fee will be based on the volume of loans that are serviced by each servicer. Fees assessed will provide the Department with the revenue to implement the regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation establishes the procedure for filing for licensure and renewals and the accompanying fees associated with the applications. The regulation establishes a late filing fee and a change of control fee. The statute allows for assessment fee adjustments every five years.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not applied. It was not deemed necessary or relevant to the registration application process or for submission to the NMLS.

FISCAL NOTE

Regulation No. 808 KAR 16:010

Contact Person: Catherine Falconer
Title: General Counsel
Address: 500 Mero Street, 2 SW 19
Frankfort, Kentucky 40601
Phone: 502-782-9052
Fax: 502-573-8787
Email: Catherine.Falconer@ky.gov

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Financial Institutions.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 286.12-030, 286.12-040, 286.12-060, 286.12-070, and KRS 286.1-011, 286.1-020.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is expected to be revenue neutral. The fees mandated by this administrative regulation will be used to perform the Department's regulatory duties.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation is expected to be revenue neutral. The fees mandated by this administrative regulation will be used to perform the department's regulatory duties.

(c) How much will it cost to administer this program for the first year?

Initially, there is no additional costs to the Department to implement the new regulations. The Department will utilize current staff to process these applications and maintain reviews of submissions through the national database.

(d) How much will it cost to administer this program for subsequent years? The Department anticipates needing dedicated staff to conduct regulatory functions in subsequent years. At that time, the anticipated costs to the Department will include a one-time expense for employee equipment of approximately \$20,000.00, thereafter approximately \$482,000.00 per year for salary, benefits, and travel costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: This regulation relates to the procedures and submission of registration documents. Costs for application for licensure are provided by statutory guidance.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This regulation is not expected to provide any cost savings to the regulated entities the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This regulation is not expected to provide cost savings to the regulated entities in subsequent years.

(c) How much will it cost the regulated entities for the first year? It will cost regulated entities \$5,000.00 for the first year due to the investigative fee for new applications, as well nominal processing fees charged by NMLS.

(d) How much will it cost the regulated entities for subsequent years? These costs cannot be specifically determined at this time. It will cost regulated entities no less than \$5,000 and no more than \$20,000 in fees in subsequent years due to the renewal assessment, which is based on loan servicing volume, as well as nominal processing fees charged by NMLS.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

This regulation will not have a major economic impact on the student loan servicer industry.

FEDERAL MANDATE ANALYSIS COMPARISON

808 KAR 16:010

Contact Person: Catherine Falconer

Phone: 502-782-9052

Email: Catherine.Falconer@ky.gov

(1) Federal statute or regulation constituting the federal mandate. None

(2) State compliance standards. None

(3) Minimum or uniform standards contained in the federal mandate. N/a

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/a

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/a

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE IN 808 KAR 16:010

808 KAR 16:010

Contact Person: Catherine Falconer
Phone: 502-782-9052
Email: Catherine.Falconer@ky.gov

The following material is incorporated by reference in 808 KAR 16-010:

- (1) Form SLSCR, "SLSCR-Student Loan Servicer Call Report", January 2023, incorporated by reference (2023)"; Form SLSCR is an eight-page annual report, submitted by the licensee, reporting student loan servicing activity to the commissioner. The report is organized by category and by loan type including general information, direct federal student loans, indirect federal student loans and private student loans.

**Form SLSCR
1/2023**

**Commonwealth of Kentucky
Division of Non-Depository Institutions
Department of Financial Institutions
Public Protection Cabinet
500 Mero Street 2SW19
Frankfort, KY 40061**

SLSCR - Student Loan Servicer Call Report Form

All student loan servicers are required to file an annual report, pursuant to KRS 286.12 and 808 KAR 16:010, for renewal of the Student Loan Servicer license.

Student Loan Servicers are required to complete Form SLSCR, the annual call report form, for the previous twelve (12) months ending on September 30. Form SLSCR should reflect data from October 1st of the preceding year until September 30th of the current year unless specified otherwise. All licensees are required to submit Form SLSCR to the Commissioner on or before November 1st of the current year.

The completed form containing annual report information must be e-mailed to DFICPDLicensing@ky.gov on or before November 1st of the current year. Do not mail a hard copy of this report to the Division. Form SLSCR annual reporting should reflect Kentucky data only.

Reporting should reflect Kentucky loans only

Name of Student Loan Servicer:	
NMLS ID #:	
Number of KY Student Loan Accounts serviced during 10/1/20__ through 9/30/20__	
\$ Value of KY Student Loan Accounts serviced during 10/1/20__ through 9/30/20__	
Number of KY Student Loan Accounts in your servicing portfolio on 9/30/20__	
\$ Value of KY Student Loan Accounts in portfolio on 9/30/20__	
Number of servicing contracts in place with clients during 10/1/20__ through 9/30/20__	
Does your company contract with any third parties who service Kentucky student loans on your behalf?	
Does your company contact Kentucky consumers/borrowers on behalf of another registered loan servicer or licensed debt collector?	
Does your company have any affiliated entities engaged in student lending?	
If yes, provide the name(s) of the affiliate(s).	
Does your company service any income share agreements?	
Does your company service any non-student loan accounts?	
If yes, what other types of accounts do you service?	
List any websites associated/affiliated with Student Loan Servicer:	
Who are your primary technology service providers (i.e., vendors that provide IT solutions and/or services to your business, including network service providers, cloud service providers, and data processing service providers)?	
Does your company service Direct Federal Student Loans?	

Reporting should reflect Kentucky loans only

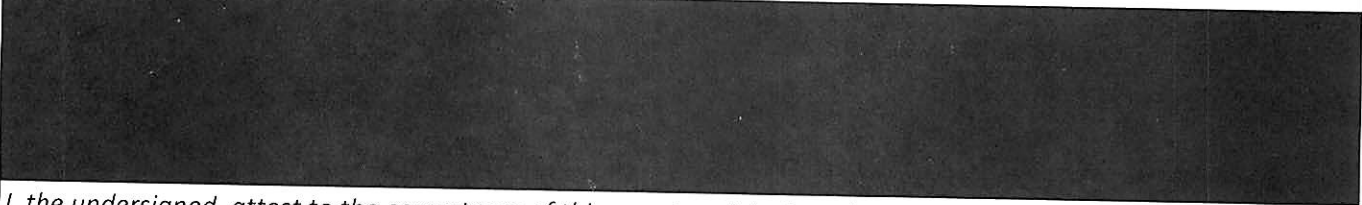
If yes, please complete the Direct Federal Loans tab.	
---	--

Does your company service Commercially-Held Federal Student Loans?	
---	--

If yes, please complete the Commercially-Held Fed Loans tab.	
--	--

Does your company service Non-Federal Student Loans?	
---	--

If yes, please complete the Non-Federal Loans tab.	
--	--



I, the undersigned, attest to the correctness of this report and declare that it has been examined by me and to the best of my knowledge and belief it has been prepared in conformance with the instructions issued and is true and correct.

Signature of authorized individual:	
Name:	
Title:	
E-mail address:	
Date:	

Reporting should reflect Kentucky loans only

Name of Student Loan Servicer:		
NMLS ID #:		
PORTFOLIO DATA (as of 9/30/20__)		
Total Borrowers		
Total Accounts		
Total Loan Volume		
Median Loan Amount		
LOAN PROGRAMS (as of 9/30/20__)		
	#	\$
Direct Undergraduate		
Parent Plus		
Grad Plus		
Consolidation		
Other		
List other programs		
LOAN STATUS (as of 9/30/20__)		
	#	\$
In-School		
Grace		
In Active Repayment		
Current		
Not Current		
<i>30-59 Days Delinquent</i>		
<i>60-89 Days Delinquent</i>		
<i>90-119 Days Delinquent</i>		
<i>120-149 Days Delinquent</i>		
<i>150-179 Days Delinquent</i>		
<i>180-270 Days Delinquent</i>		
<i>270+ Day</i>		
Total in Deferment		
Forbearance		
Other Status		
Describe other status		
Public Service Loan Forgiveness (PSLF)		
	#	\$
PSLF Applications Received		
PSLF Applications Granted		
Temporary Expanded PSLF Applications Received		
Temporary Expanded PSLF Applications Granted		

Reporting should reflect Kentucky loans only

DEFAULTS AND DISCHARGES (FOR 10/1/20__ - 9/30/20__)	#	\$
Defaults		
<i>First-Time Default</i>		
<i>Second-Time Default</i>		
Transferred to Debt Management and Collections System		
Loans Discharged		

Additional information:

Reporting should reflect Kentucky loans only

Name of Student Loan Servicer:		
NMLS ID #:		
PORTFOLIO DATA (as of 9/30/20__)		
	#	\$
Total Borrowers		
Total Accounts		
Total Loan Volume		
Co-Signed Loans		
Non-Co Signed Loans		
LOAN PROGRAMS (as of 9/30/20__)		
	#	\$
Federal Family Education Loan (FFEL) Program		
Perkins		
Consolidation		
Other		
Describe Other Programs		
LOAN STATUS (as of 9/30/20__)		
	#	\$
In-School		
Grace		
In Active Repayment		
Current		
Not Current		
<i>30-59 Days Delinquent</i>		
<i>60-89 Days Delinquent</i>		
<i>90-119 Days Delinquent</i>		
<i>120-149 Days Delinquent</i>		
<i>150-179 Days Delinquent</i>		
<i>180+ Days Delinquent</i>		
Total in Deferment		
Forbearance		
Other Status		
Describe other status		
DEFAULTS AND DISCHARGES (FOR 10/1/20__ - 9/30/20__)		
	#	\$
Defaults		
<i>First-Time Default</i>		
<i>Second-Time Default</i>		
Transferred to Debt Management and Collections System		
Loans Discharged		

Reporting should reflect Kentucky loans only

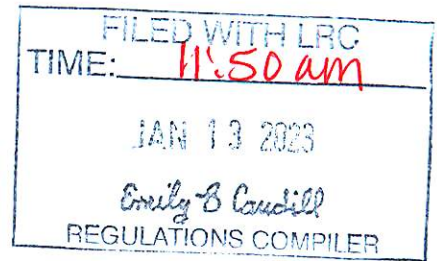
Name of Student Loan Servicer:		
NMLS ID #:		
PORTFOLIO DATA (as of 09/30/20__)	#	\$
Total Borrowers		
Total Accounts		
Total Loan Volume		
Co-Signed Loans		
Non-Co Signed Loans		
SERVICING CLIENTS (as of 9/30/20__)	#	\$
Educational Institutions		
Banks and Credit Unions		
State or Municipal Agencies		
Private Lenders		
Consolidation		
Other		
Describe Other Client Categories		
LOAN TYPES (as of 9/30/20__)	#	\$
Undergraduate		
Graduate		
Parent		
Non-Tuition		
Consolidation		
Other		
Describe Other Types of Loan Programs		
LOAN STATUS (as of 9/30/20__)	#	\$
In-School		
Grace		
In Active Repayment		
Current		
Not Current		
30-59 Days Delinquent		
60-89 Days Delinquent		
90-119 Days Delinquent		
120-149 Days Delinquent		
150-179 Days Delinquent		
180+ Days Delinquent		
Total in Deferment		
Forbearance		
Other Status		
Describe other status		

Reporting should reflect Kentucky loans only



DEFAULTS AND DISCHARGES (FOR 10/1/20__ - 9/30/20__)	#	\$
Non-Performing Loan Charge-Offs		
Loans Discharged		
In Litigation		
Bankruptcy Notices Received		
Loan Modification Requests		
Loan Modifications Granted		

Additional Information:



1 PUBLIC PROTECTION CABINET

2 Kentucky Department of Financial Institutions

3 Student Education Loan Servicers

4 (New Administrative Regulation)

5 808 KAR 16:020. Recordkeeping Requirements; Unfair, Deceptive, or Predatory Practices

6 RELATES TO: KRS 286.12-050 and 286.12-080

7 STATUTORY AUTHORITY: KRS 286.1-011, 286.1-020, KRS 286.12-050,

8 KRS 286.12-080

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-020(1) authorizes the
10 commissioner to promulgate administrative regulations as are necessary to interpret and
11 carry out the provisions and intent of KRS Chapter 286. KRS 286.12-080 prohibits a
12 student education loan servicer from engaging in unfair, deceptive, abusive, or predatory
13 practice towards any borrower, or from misrepresenting or omitting any material
14 information in connection with servicing a student education loan. This administrative
15 regulation establishes standards that a licensee must abide by to maintain accurate records
16 and prevent unfair, deceptive, or predatory practices.

17 Section 1. Definitions.

18 (1) "Best financial interest of the borrower" means reducing the total cost of a student loan,
19 including principal balance, interest, and fees to the borrower.

20 (2) "Commissioner" is defined by KRS 286.1-010(1).

- 1 (3) "Necessary information" includes the following:
- 2 (a) A schedule for all transactions credited or debited to the student loan account;
- 3 (b) A copy of the promissory note for the student loan;
- 4 (c) Notes created by a student loan servicer's personnel reflecting communication with the
- 5 borrower regarding the student loan account;
- 6 (d) A report of the data fields relating to the borrower's student loan account created by the
- 7 student loan servicer's electronic systems in connection with servicing practices;
- 8 (e) Copies of electronic records or any information or documents provided by the borrower
- 9 to the student loan servicer;
- 10 (f) Usable data fields with information necessary to assess qualification for forgiveness,
- 11 including public service loan forgiveness, if applicable; and
- 12 (g) Any information necessary to compile payment history.
- 13 (4) "Negative financial consequences" includes:
- 14 (a) Negative credit reporting;
- 15 (b) Loss or denial of eligibility for a borrower benefit or protection established under
- 16 federal law or by contract; and
- 17 (c) Late fees, interest capitalization, and other financial injury.
- 18 (5) "Qualified request" means a request made by a borrower to a student loan servicer in
- 19 which the borrower either:
- 20 (a) Requests specific information from the student loan servicer; or
- 21 (b) Reports what the borrower believes to be an error regarding the borrower's account.
- 22 (6) "Student loan servicer" and "servicer" are defined by KRS 286.12-010(13).
- 23 Section 2. A student loan servicer shall:

1 (1) Process student loan payments pursuant to the servicer's established payment
2 processing policies, which shall be disclosed and readily accessible to borrowers;

3 (2) Credit student loan payments to the borrower's account in accordance with the
4 following:

5 (a) A payment received before 11:59 p.m. on the date on which that payment is due, in
6 the amount, manner, and location indicated by the servicer, shall be credited as effective
7 on the date on which the payment was received by the servicer. A servicer shall treat a
8 payment received from the borrower on the borrower's due date as an on-time payment;

9 (b) If a payment is made by check, a servicer shall credit the payment on the date the
10 check was received by the servicer regardless of the date of processing;

11 (c) If the servicer receives a check with no identifying account information, the servicer
12 shall:

13 1. Within ten (10) days, determine to which account and loan the payment should be
14 credited and credit the payment as of the date it was received by the servicer; and

15 2. Update the borrower's online account within one (1) business day of the determination
16 made under (a) of this subparagraph;

17 (d) If the borrower submits an overpayment to the student loan servicer, the servicer shall
18 inquire of a borrower, either through electronic communication or in writing, to which
19 account the borrower prefers to apply an overpayment. A borrower's direction regarding
20 application of an overpayment to a student loan account shall be effective with respect to
21 future overpayments during the term of a student loan, until the borrower provides to the
22 servicer written alternative instructions regarding overpayment. In the absence of a
23 direction provided by a borrower, the student loan servicer shall allocate an overpayment
24 in a manner consistent with the best financial interest of the borrower; and

1 (e) If the borrower submits a partial payment, except as otherwise provided by a student
2 loan agreement, comply with the direction provided by a borrower, regarding which
3 account to allocate a partial payment. In the absence of a direction provided by a borrower,
4 the student loan servicer shall allocate a partial payment in a manner consistent with the
5 best financial interest of the borrower;

6 (3) Not assess negative financial consequences related to the material change by a
7 servicer of the mailing address, office, or procedures for handling borrower payments
8 causing a delay in the crediting of a borrower payment;

9 (4) Supervise and monitor actions of service providers, including maintaining policies and
10 procedures to oversee compliance by third-party service providers engaged in all aspects
11 of student loan servicing;

12 (5) Manage and process loan accounts and paperwork, consistent with existing federal
13 requirements, and maintain records ensuring the servicer's personnel have received the
14 following:

15 (a) Training on the management and processing of accounts and corresponding paperwork;
16 and

17 (b) Access to necessary account information regarding forms and applications that have
18 been approved, denied, or are in process, applications for income-driven repayment plans,
19 and all forms required to access benefits and protections for federal student loans, pursuant
20 to 20 U.S.C. secs. 1070 et seq., as amended;

21 (6) Unless a longer period of time is stipulated by a student loan agreement or by federal
22 law, maintain all records regarding a borrower's account for the period of time during which
23 a servicer performs student loan servicing and for a minimum of three (3) years after the

- 1 loan serviced has been paid in full or assigned to collections, or the servicing rights have
2 been transferred;
- 3 (7) Institute and maintain policies and procedures permitting a borrower who is dissatisfied
4 with the outcome of an initial qualified request to escalate the borrower's concern to a
5 supervisor or higher level of review;
- 6 (8) Not take actions resulting in negative financial consequences that are directly related to
7 the issue identified in a borrower's qualified request, until that request has been resolved;
- 8 (9) Not take actions resulting in negative financial consequences that are directly related to
9 a sale, assignment, transfer, system conversion, or payment made by the borrower to the
10 original student loan servicer consistent with the original student loan servicer's policy;
- 11 (10) If a sale, assignment, or other transfer of the servicing of a student loan, results in a
12 change in the identity of the party to whom the borrower is required to send payments or
13 direct any communications concerning the student loan account, notify the borrower, in
14 writing, fifteen (15) days prior to the date the borrower's payment is due on the student
15 loan account, of the following:
- 16 (a) If applicable, the license number issued by the commissioner of the new student loan
17 servicer;
- 18 (b) The name and address of the new student loan servicer to whom subsequent payments
19 or communications are to be sent;
- 20 (c) The telephone numbers and the Web sites of the new student loan servicer;
- 21 (d) The effective date of the sale, assignment, or transfer;
- 22 (e) The date on which the current student loan servicer will stop accepting payments on the
23 borrower's student loan account; and

- 1 (f) The date on which the new student loan servicer will begin accepting payments on the
2 borrower's student loan;
- 3 (11) Transfer all necessary information regarding a borrower, a borrower's account, and a
4 borrower's complete student loan history to any new student loan servicer within forty-five
5 (45) calendar days of the effective date of the sale, assignment, or transfer;
- 6 (12) Provide and maintain a record of specialized training for customer service personnel
7 to inform:
- 8 (a) Military borrowers about student loan repayment benefits and protections;
- 9 (b) Borrowers working in public service about student loan repayment benefits and
10 protections;
- 11 (c) Older borrowers about the risks specifically applicable to older borrowers to ensure
12 that, once identified, older borrowers are informed about student loan repayment benefits
13 and protections, including discharge or loan forgiveness programs for private and federal
14 loans, if applicable; and
- 15 (d) Borrowers with disabilities about student loan repayment benefits and protections,
16 including disability discharge programs for private and federal loans;
- 17 (13) Respond to a qualified request by:
- 18 (a) Acknowledging, in writing or through electronic communication, receipt of the
19 request within ten (10) business days; and
- 20 (b) Within thirty (30) business days of receipt of the request, providing information
21 relating to the status of the request and, if applicable, either the action the student loan
22 servicer will take to correct the account or an explanation for a determination that the
23 borrower's account is correct.

- 1 1. The thirty (30) day period set out in subsection (13)(b) of this Section may be extended
- 2 for fifteen (15) days if, before the end of the thirty (30) day period, the servicer notifies
- 3 the borrower of the extension and the reason for the delay in responding; and
- 4 2. A servicer is required to send a borrower up to three subsequent notices stating there
- 5 will be no response to a qualified request if the borrower has previously submitted the
- 6 same request and received a complete response, and no new information is submitted in
- 7 subsequent, duplicative qualified requests;
- 8 (14) Respond within ten (10) business days to communications from the Commissioner;
- 9 (15) Provide information to borrowers, in writing, about the availability of loan forgiveness
- 10 programs and income-driven repayment plan opportunities;
- 11 (16) Maintain on its website, free of charge, complete information and account records for
- 12 each borrower, which shall;
 - 13 (a) Be accessible to the borrower only, through a secure log-in system;
 - 14 (b) Include a consolidated account report for each borrower, and a loan history for each
 - 15 student loan serviced; and
 - 16 (c) Be available to borrowers at all times, except for occasional, short periods of time when
 - 17 the student loan servicer's system is not available because the system is undergoing routine
 - 18 maintenance or is blocked for security reasons.
- 19 1. The consolidated account report required under this subsection shall include:
 - 20 a. Borrower name;
 - 21 b. Number of student loan(s) serviced for each borrower;
 - 22 c. Loan number, for each student loan;
 - 23 d. Loan type, i.e., Direct Loan; FFELP Loan; Perkins Loan; or private student loan;
 - 24 e. Loan disbursement amount and date, for each student loan;

- 1 f. Interest rate(s) and maturity date, or number of monthly payments required to repay
- 2 the loan, for each student loan;
- 3 g. Loan balance and status, for each student loan;
- 4 h. Cumulative balance owing for each borrower;
- 5 i. Whether the borrower has an application pending for, or is repaying under, an
- 6 alternative repayment plan, and listing the plan chosen by the borrower; and
- 7 j. Whether the borrower has an application pending for any loan forgiveness,
- 8 cancellation, or discharge benefit and current status of the application; and

9 2. The loan history required under this subsection shall include the following information,
10 including the corresponding dates or data range, for each:

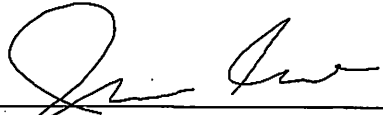
- 11 a. disbursements;
- 12 b. interest accruals;
- 13 c. fees;
- 14 d. late charges;
- 15 e. any other miscellaneous amounts charged to the borrower;
- 16 f. payments received;
- 17 g. payments toward loan forgiveness programs; and
- 18 h. the borrower's repayment plan;

19 (17) Upon request by a borrower, within seven (7) days, provide a borrower, free of charge,
20 a complete and accurate payoff statement. The statement shall clearly indicate the date on
21 which it was prepared, the relevant time frame for submission of the payoff amount, and
22 any circumstances which may change the amount required to pay off the loan account. A
23 student education loan servicer is required to provide one (1) payoff statement per quarter,

- 1 at no charge to the borrower, upon request. Thereafter, the student loan servicer may
- 2 charge the borrower the actual cost to produce a physical copy of the account record.

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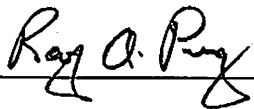
READ AND APPROVED BY



Justin Burse, Acting Commissioner
Department of Financial Institutions

1/13/2023

DATE



Ray Perry, Secretary
Public Protection Cabinet

1/13/2023

DATE

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

Kentucky Department of Financial Institutions
808 KAR 16:020 Licensing, Registration, Renewals and Fees.

A public hearing on this administrative regulation shall be held on March 28, 2023, at 2:00 PM, at 500 Mero Street, Frankfort, KY 40601.

Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Catherine Falconer
Title: General Counsel
Address: 500 Mero Street, 2 SW 19
Frankfort, KY 40601
Phone: 502-782-9052
Fax: 502-573-8787
Email: Catherine.Falconer@ky.gov

Contact Person: Marni Gibson
Title: Acting Deputy Commissioner, Dept. of Financial Institutions
Address: 500 Mero Street, 2SW19
Frankfort, KY 40601
Phone: 502-782-9053
Fax: 502-573-8787
Email: Marni.Gibson@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 808 KAR 16:020

Contact Person: Catherine Falconer
Title: General Counsel
Address: 500 Mero Street, 2 SW 19
Frankfort, KY 40601
Phone: 502-782-9052
Fax: 502-573-8787
Email: Gary.Stephens@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards that a student loan servicer must abide by in order to maintain accurate records and prevent unfair, deceptive, abusive, or predatory practices.

(b) The necessity of this administrative regulation:

KRS 286.12 was a new statute enacted in the 2021-2022 legislative session. These regulations set forth the requirements and procedures for student loans servicers to follow regarding record and account management along with providing guidance to the licensees regarding unfair, deceptive, abusive, and predatory practices.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 286.12-050 requires specific records be maintained by the servicer along with a three-year record retention of all account records upon closure of the account. These account records include books, records, correspondence, and accounts of the borrower, to be provided to the Department when required or upon examination, to confirm compliance. KRS 286.12-080 sets forth specific prohibitions of deceptive or abusive acts or practices by the licensee. This administrative regulation provides specific guidance as to appropriate and responsible student loan servicer account management and communication with relevant parties.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist the Department to maintain oversight of the student loans servicers industry by requiring licensee to abide by record retention schedules for specific account records and for proper oversight of account management for the benefit and protection of the borrower.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: This is a new regulation.

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation effects all student loan servicers that have accounts for Kentucky citizens. The exact number of individuals and businesses affected by this regulation will fluctuate depending upon the number and status of the loans in a given year. There are 74 non-exempt entities licensed in NMLS as student education loan servicers that the Department anticipates will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: All industry participants are required to maintain account records to be compliant with statutory requirements. Specifically, Licensees are required to maintain correspondence between servicer and borrower, maintain records related to payments and application of payments to proper accounts and all account related updates and program applications. The Licensee is required to maintain adequate training and to provide servicer personnel with all required information needed to adequately maintain account records to mitigate abuse, misleading information, or predatory account practices as well as provide required services in the best interest of the borrower. Regulated entities will need to implement proper procedures to ensure servicing standards are met and the borrower is provided with relevant information regarding account management while working in the best interests of the borrower.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Servicers are required to maintain account records; therefore, there should be no additional cost to implement the requirements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All participants, servicers, and borrowers will benefit from process efficiencies and timely information exchanges between servicers and borrowers, along with maintaining the borrower on the lowest cost loan basis which will assist in mitigation of misapplied payments, abusive practices, and participation in the least advantageous loan payment programs to the borrower.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Initially, there is no additional costs to the Department to implement the new regulations. The Department will utilize current staff to process these applications and maintain reviews of submissions through the national database.

(b) On a continuing basis: On a continuing basis, dedicated staff will be needed to perform our regulatory functions. The subsequent cost to the Department will be a one-time cost for employee equipment of \$20,000.00, then approximately \$482,000.00 per year for salary, benefits, and travel costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Revenue will be generated through submission of registration, renewal, and other fees to the Department.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement and enforce this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish or effect any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applicable to these regulations based on the nature and subject matter contained within. This regulation relates to record keeping and account management.

FISCAL NOTE

Regulation No. 808 KAR 16:020

Contact Person: Catherine Falconer
Title: General Counsel
Address: 500 Mero Street, 2 SW 19
Frankfort, KY 40601
Phone: 502-782-9052
Fax: 502-573-8787
Email: Gary.Stephens@ky.gov

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Financial Institutions

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 286.1-011, 286.1-020, KRS 286.12-050, KRS 286.12-080

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate new revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will not generate new revenue.

(c) How much will it cost to administer this program for the first year? Costs to administer this regulation will be absorbed into the annual Department budget for the current fiscal cycle.

(d) How much will it cost to administer this program for subsequent years? In subsequent years, dedicated staff will be needed to perform our regulatory functions. The costs incurred will be a one-time cost for employee equipment of \$20,000.00, then approximately \$482,000.00 per year for salary, benefits, and travel costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation is not expected to generate cost savings to the regulated entities.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation is not expected to generate cost savings to the regulated entities.

(c) How much will it cost the regulated entities for the first year? This administrative regulation is not expected to incur additional costs to the regulated entities for the first year.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation is not expected to impose additional costs to the regulated entities in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation: This regulation relates to record keeping requirements and prohibited activities of the licensee. Record keeping is expected to be an ongoing and required business activity and adhering to regulatory requirements should not require additional costs. Prohibited activities should be avoided by the licensee and with compliance, the licensee should not incur additional costs.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

This regulation will not have a major economic impact on the student loan servicer industry.

FEDERAL MANDATE ANALYSIS COMPARISON

808 KAR 16:020

Contact Person: Catherine Falconer
Phone: 502-782-9052
Email: Catherine.Falconer@ky.gov

- (1) Federal statute or regulation constituting the federal mandate. None
- (2) State compliance standards. None
- (3) Minimum or uniform standards contained in the federal mandate. N/a
- (4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/a
- (5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/a