Summary of Proposed New Part 409 of 3 NYCRR, Superintendent’s Regulations (Student Loan Servicers)

Section 409.1 Definitions. Provides the definitions used in the part.

Section 409.2 Applicability. Sets forth that the part is applicable to all student loan servicers servicing New Yorker’s student loans. To the extent federal preemption prevents the application of certain provision, this section outlines those provisions which do not apply to student loan servicers who only service federal student loans.

Section 409.3 Licensing. Sets forth the requirements for licensing, the application process, and the ability to surrender a license. Requires use of NMLS in licensing. The license issued under this section shall be a perpetual license.

Section 409.4 Temporary license during transition period. This section provides for a temporary license to any student loan servicer who is already engaged in the business as of the effective date of Article 14-A and who makes a complete license application as of that date. Such temporary license shall only be effective until the Superintendent renders a decision on the application, it may not be extended or renewed, and is subject to revocation without a hearing.

Section 409.5 Continuing duty to update licensing information; changes in officers and directors. Provides that licensed student loan servicers shall make necessary amendments to their application and licensing file.

Section 409.6 Change in control application; prior approval. Sets forth the procedures for making a change in control application and obtaining prior approval of the superintendent. Also provides the process for determinations of control of a student loan servicer.

Section 409.7 Suspension and revocation of a license. Provides the grounds for the suspension or revocation of a license. Expressly permits hearings by submission. Provides for emergency suspensions in certain circumstances.
Section 409.8 Servicing standards. Sets forth standards to be followed by the industry. Including standards surrounding nonconforming payments, transfers of servicing, customer service, and borrower complaints and inquiries.

Section 409.9 Prohibited practices. Provides certain prohibited acts and practices. Establishes baseline understanding of unfair and abusive acts and practices.

Section 409.10 Examinations. Sets forth provisions relating to the examination of student loan servicers and how the costs of those examinations will be assessed.

Section 409.11 Reporting requirements. Establishes the procedure for annual reporting by student loan servicers and sets forth rules regarding special reports.

Section 409.12 Confidential supervisory information. Outlines what supervisory information shall be confidential communications protected from disclosure.

Section 409.13 Books and records. Provides rules for the preservation of the books and records of student loan servicers.

Section 409.14 Cybersecurity. Confirms the application of 23 NYCRR Part 500 to student loan servicers and provides for a phased in transition period.

Section 409.15 Notifications. For those entities not required to obtain a license under the proposed regulation that are required to submit notice to the Superintendent of their participation in the servicing of student loans in the state, this section provides the mechanism for submitting that notice.

Section 409.16 Severability. This section instructs that should any provision of this regulation be found by a court of competent jurisdiction to be preempted, that it is the intent of the Department that such provision be reformed to continue to apply to the greatest extent permitted.