



U.S. Department of Education Employer's Handbook



Processing Federal Administrative Wage Garnishments under the Debt Collection Improvement Act

October 2003

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Section 488A of the Higher Education Act of 1965



THE UNITED STATES DEPARTMENT OF EDUCATION
Administrative Wage Garnishment Branch

Dear Employer:

Each year, Federal taxpayers back billions of dollars in loans made to students and their parents by banks, schools, and the government itself. When a borrower repays a federally-supported student loan, everyone benefits. The borrower maintains a good credit rating. Lawmakers continue their support of the loan program -- enabling more people to pursue educational dreams and providing an educated work force for employers. Fewer taxpayer dollars are needed to pay for the loan programs. Although over 85 % of borrowers repay their loans, defaults do occur, and they remain a serious problem.

As the agency responsible for administering the programs that provide this Federal loan financing, the U. S. Department of Education (ED) pursues collection of student loans aggressively through debtor contact, credit reporting, litigation, collection agencies and offset against Federal payments, such as Federal income tax refunds. ED also uses another tool for collection of defaulted student loans— garnishment of wages of defaulted borrowers. Section 488A of the Higher Education Act authorizes ED and student loan guarantors to collect defaulted Federally-financed student loans by means of an administrative garnishment order to the employer, without the need for a court order. This order requires the employer to withhold and pay over to ED a portion of the debtor's disposable pay. Federal law authorizing this action supersedes any state law that might limit or prohibit wage garnishment, or would require a creditor to obtain a judgment or use specific procedures for wage garnishment. Beginning in 2003, ED will issue garnishment orders to employers to withhold **15%** of wages from student aid debtors, in reliance on a newer law, part of the Debt Collection Improvement Act of 1996.

Since ED started wage garnishment in 1993, collections of defaulted student loans have increased dramatically. The cooperation from employers has contributed and will continue to contribute to the significant results in this program. The handbook included with this letter will provide you with more information about the wage withholding program and how it works. ED has worked to minimize any direct impact the program might have on your business operations. If you have any questions, please contact ED's Administrative Wage Garnishment Compliance Branch (AWG/NCE) at (404) 562-6013.

Wage garnishment helps ensure that those borrowers who were assisted by Federally-supported student loans pay their debts so that others may receive assistance to pursue educational dreams. Thank you for working with us on this important goal.

Sincerely,

The Administrative Wage Garnishment Branch
U.S. Department of Education

The Student Loan Programs

Program Overview

Education collects loans made under three separate Federally-financed education loan programs, as well as overpayments to student grant recipients. The largest of the three loan programs is the Federal Family Education Loan Program (FFELP). Formerly called the Guaranteed Student Loan Program, the FFELP was created by the Higher Education Act of 1965 in an effort to provide incentives for the use of private capital to fund low-interest long-term loans for postsecondary education. Students and their parents go to private lenders for a FFELP loan; State and non-profit organizations, called “guaranty agencies,” guarantee repayment of the loan in the event of default, death or disability of the borrower. Education in turn reinsures these guarantors against their losses, and subsidizes the loans.

When a FFELP borrower defaults, the guaranty agency pays the lender, receives Federal reinsurance, takes assignment of the loan from the bank, and then attempt to collect, remitting most of the amount collected to Education. If the guaranty agency is unable to collect, the guarantor may assign the loan to Education, which then collects the debt directly, using collection contractors, Federal offsets, credit bureau reporting, and wage garnishment.

Under the Direct Loan Program, Education itself makes loans to students and parents. These loans have the same terms as FFELP loans. Education services these loans, and collects those that default using the same tools as it uses for FFELP loans it holds.

Under the Perkins Loan Program, colleges make loans to students from a loan fund established by Federal contributions with matching institutional funds. The college collects the loan and re-lends the funds collected. If the college is unable to collect a defaulted loan, it can assign the loan to Education, which then collects the loan.

Under the Pell Grant Program, Education makes Federal grants to financially needy students; students who receive more than they qualify for must repay that amount, and Education collects the amounts overpaid by those who do not repay voluntarily on demand by the college.

Default Rates

Most students repay their debts. However, between 10 percent and 15 percent of the borrowers in this program do not repay their loans. Many of these borrowers are employed and able to make payments. When borrowers default, it is ultimately the taxpayers that pay the expense for their education loans.

Default Prevention and Collection

A number of regulations and incentives have been put into place to prevent the default rate from rising. In addition Congress has authorized guaranty agencies and ED to collect defaulted loans through the administrative wage garnishment of the wages of defaulted borrowers.

Legislative Authority for Administrative Wage Garnishment

ED has relied on Section 488A of the Higher Education Act, 20 U.S.C. §1095a, to conduct administrative wage garnishment. This provision authorizes ED and student loan guarantors to administratively garnish up to 10 percent of the debtor’s disposable pay to collect defaulted, Federally-financed student loans. Debtors can agree to withholding of a larger amount. This Federal law supersedes any state laws that might prohibit or limit wage garnishment, or would allow garnishment only through a court order.

ED now relies on 31 U.S.C. § 3720D, a very similar Federal law that authorizes Federal agencies to conduct administrative wage garnishment of up to 15 percent of the debtor’s disposable pay. This

authority was enacted in Section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104-134, 110 Stat. 1321-358 (Apr. 26, 1996).

Basic Steps for Employers to Follow for Withholding

Step	Action
1.	<p>Read the "Important Notice to Employer" (SF-329A), which explains the legal obligation created by the Order, and the Wage Garnishment Order (SF-329B) ("Order"). Both contain the instructions on how to withhold and pay the required amounts. Check the employee's name, address, and social security number contained in the Order against your records. You are required by Federal regulations to complete and return the Employer Certification (ED-329D) (Attachment A) ("Certification") immediately. Your liability for withholding begins when you receive the Order, not when you submit the Certification.</p> <p>If, when you receive the Order, you no longer are obligated to pay the employee (for example, because the employee's employment was involuntarily terminated or the employee left for another job), promptly complete and submit the Certification, including the employee's last known address and, if known, the name and address of the employee's new employer, if any.</p> <p>If your obligation to pay the employee ends after you have received the Order, promptly complete and submit a Certification to notify ED. Remember that income earned up to the termination date and any other compensation, such as severance pay, is subject to withholding.</p>
2.	<p>Calculate and deduct the amount to be withheld from the debtor's pay for the first pay period that occurs after the employer receives the Order, using the Wage Garnishment Worksheet (SF-329C).</p>
3.	<p>Send the amount deducted to ED according to the instructions. Submit the amount withheld, payable to the U.S. Department of Education to:</p> <p>U.S. Department of Education National Payment Center P.O. Box 4142 Greenville, TX 75403-4142.</p> <p>Your check should include:</p> <ul style="list-style-type: none"> • employee name and Social Security number; • employer name and Federal Employer Identification Number; and • notation indicating that it is a wage withholding payment. <p>If you are making payments for two or more employees, you may combine payments as long as the check stub or transmittal sheet properly identifies the amount remitted for each employee.</p>
4.	<p>Repeat steps 2 and 3 for each pay period until (a) the Department provides you with a Release; or (b) your obligation to pay the employee ends. Although deductions are to be made at each pay period, remittance need only be made once each month. You are not required to change normal pay and disbursement cycles to comply with the Order.</p>

ED's Notice to the Debtor/Employee of Garnishment Action

Before issuing any garnishment order, ED has given the debtor/employee due process required by law, including –

- Notice that ED intends to collect specific debts by administrative wage garnishment;
- An opportunity to dispute the debt, and
- An opportunity to repay the debt voluntarily and avoid wage garnishment

ED's Notices to the Employer of Garnishment Action

ED first notifies the employer that debtor pay must be withheld by sending the employer a Wage Garnishment Order (SF-329B) form, which provides the debtor's name, address, and social security number as well as instructions for withholding.

Employer's Responsibility

Employers should respond by completing and returning the Employer Certification (ED-329D) within 20 days of receipt, and begin withholding the remitting to the amount directed in the order, unless prevented by applicable law (see below). If the debtor is no longer employed by your organization when you receive the Order, simply indicate this on the form and return it to ED or call the Administrative Wage Garnishment Branch at 404-562-6013.



Employment Confirmation Report

Each quarter, ED will send the employer an Employment Confirmation Report to obtain any information needed regarding any changes to the employment status of the debtor. The Report lists the debtor/employee's account balance. Keep in mind that the balance shown on the Report reflects interest that has accrued since the Order was issued. In addition, ED has used part of the amounts withheld and paid to ED to defray collection costs ED incurs in collecting the debt. If you have any questions regarding the account balance call (404) 562 -6013.

Warning for failure to remit payments

ED sends the employer a notice, called the X-89 letter, if ED's records indicate that the employer has not remitted a payment within the past 45 days. The letter advises that if payment is not received within 30 days of the date of the letter, ED will pursue enforcement of the garnishment order in Federal court.

Calculating the Amount of Earnings to be Withheld

The Wage Garnishment Worksheet (SF-329C) contains detailed instructions explaining how to compute the amount to be withheld under the Order.

How to Remit Withholdings to ED

Step	Action
1.	Submit a check for the required amount calculated according to the instructions above. Make checks payable to the U. S. Department of Education.
2.	Be sure each check includes the information listed below: <ul style="list-style-type: none">• Debtor's name• Debtor's Social Security Number• Employer name• Notation indicating that this is a wage withholding payment (or payments)• Employer's Federal Employer Identification Number
3.	Send the check to: U.S. Department of Education National Payment Center P.O. Box 4142 Greenville, TX 75403-4142.

Frequency of Payment

Although deductions should be made at each pay period, whether weekly, bi-weekly, semi-monthly, etc., remittance to ED need not be made more than once each month. The employer is not required to change normal pay and disbursement cycles to comply with the Order.

Withholding for Two or More Debtors

If the employer is making payments to ED for two or more debtors, the employer may combine the payments as long as the check stub or manifest details each employee's name and social security number and the amount remitted for each debtor.

Handling Multiple Garnishment Orders on a Debtor

Informing ED

If you receive a Wage Garnishment Order from ED for a debtor who is subject to one or more prior outstanding garnishment orders, you must inform ED on the Employer Certification (ED Form 329D). ED will provide assistance in determining how to proceed. It is particularly important that you contact ED when multiple garnishments prohibit you from withholding or otherwise change the amount you are required to withhold. You should always wait for a Release of Order of withholding before stopping the garnishment payments to ED.

Federal Limits on Amounts Withheld for Garnishments

The Consumer Credit Protection Act, 15 USCA Section 1671 et seq., generally limits the amount that can be withheld from a debtor's pay to 25 % of the debtor's disposable pay. If the debtor in question is subject to multiple withholding of garnishments, this limit may affect the amount that can be withheld pursuant to the ED Order. Requirements for calculating these limits are very specific. The Wage Garnishment Worksheet (SF-329C) reflects the requirements of this law. For more information, please refer to 29 CFR 870.1, Subpart B. As a general rule, if the debtor already has 25 percent or more of his or her wages withheld at the time you receive the Order, you may not withhold additional amounts for student aid debts. If the amount already being withheld is less than 25 percent, however, you should still withhold up to the limit.

The total amount available for withholding pursuant to a garnishment order may vary from 25 % if –

- the order is for child support, in which case up to 60 percent of an employee's disposable pay may be subject to garnishment, or
- the amount by which the employee's disposable pay exceeds 30 times the minimum wage is less than 25 percent of the employee's disposable pay, in which case the lesser amount is the maximum amount, which can be withheld.

Please note that if no amount of an employee's disposable pay is available to pay the ED Order, an employer must still notify ED by means of the Employer Certification (ED-329D) regarding its inability to comply, or fully comply, with the garnishment order.

Debtors subject to a prior Student Loan or Federal agency Garnishment

Typically, only administrative wage garnishment orders issued by ED, other Federal agencies, or student loan guarantors will order withholding of a percentage less than 25% of disposable pay. Thus, where the employer has already received a garnishment order issued by another Federal agency or by a student loan guarantor, a portion of the debtor's disposable pay may be available to honor the ED order.

If the employee is subject to multiple garnishments during a pay period, Federal law (see 15 USC Section 1673 and Q&A's #2, #9, #10 below) may limit your ability to withhold the full amount of the garnishment called for under the Order for that pay period. The sum of all garnishment amounts, under Federal law cannot exceed an aggregate amount equal to 25% of disposable pay. If this rule limits what you can withhold, you must inform us, in writing, immediately.

Employers subject to must therefore honor a garnishment order issued for a debtor already subject to one or more prior orders, especially administrative wage garnishment orders, if the earlier garnishment order(s) affect less than 25 % of the employee's disposable pay.

Priorities:

Generally, garnishments must be satisfied in the order in which they are issued to the employer, up to the maximum amount subject to that kind of garnishment order.

- Be sure to check the effective duration of any state law garnishments. Many of them remain in effect only for a limited time; when they lapse, the garnishment order next-in-line steps up in priority.
- Federal student loan garnishments (such as the Order) have no time limit; they remain effective until (a) the debt is paid in full (NOTE: the total amount the employee owes is more than the amount indicated in the Order under "Total Amount Currently Due" because, among other things, interest continues to accrue) on the unpaid principle balance; (b) your obligation to pay the employee otherwise has ended; (c) a bankruptcy "stay" suspends the garnishment; or (c) the debt is discharged or otherwise resolved.
- Garnishments for family support take precedence over Orders for student aid debts, regardless of when the latter are issued. If you receive a garnishment order for child support after you have received our AWG Order, contact us at 404/562-6013.
- IRS levies have priority in accordance with the date of their issuance. If you have any questions, contact the IRS officer who issued the levy.

* This information reflects the Department's understanding concerning the general aspects of multiple withholding under AWG but is not intended as legal advice. Employers are responsible for obtaining legal counsel for advice on payment issues.

When to Stop Withholding

Notification to Stop Wage Garnishment

To inform an employer to stop withholding, ED's Administrative Wage Garnishment system will send a Notice of Cancellation of Order for Withholding of Wages. The employer should continue to withhold earnings from the debtor's pay until it receives this notice releasing the order.

When the Debtor Ends Employment

When a debtor for whom the employer has been withholding earnings terminates employment with that organization, whether voluntarily or involuntarily, the employer should notify ED in writing or by phone within 10 business days. In addition, the employer must also supply the debtor's last known address and the name and address of his or her new employer, if known. This requirement will help ensure that the debtor can be located and that the new employer will be notified promptly of the withholding requirement. Income earned up to the termination date and any other compensation, such as severance pay, is subject to withholding. A form for this purpose, Employer Certification (ED-329D), has been provided in this handbook for your convenience. Please make many copies as you need.

When the Debtor Files for Relief in Bankruptcy

If a debtor for whom the employer is withholding earnings notifies the employer that he or she has filed bankruptcy, the employer should advise the debtor that the debtor is responsible for giving notice to ED. The employer may suspend withholding in order to notify ED of the debtor's statement. ED encourages an employer that receives actual proof of bankruptcy filing by the debtor to transmit those documents to ED at (404) 562-6110.

When the Employer Files for Relief in Bankruptcy

An employer that files for protection in bankruptcy remains subject to the Order and must continue to withhold earnings pursuant to the Order.

Employer Compliance is Mandatory!

Employers can help keep taxpayers' cost down for the student loan programs by complying with these wage garnishment procedures. Federal law provides penalties for non-compliance with the Order and for retaliation against employees who are subject to adverse action on account of an Order.

Federal law provides that the employer is liable for any amount that should have been withheld pursuant to an Order, and authorizes the United States to the employer to recover the amount not withheld, together with attorney's fees, costs and, in the court's discretion, punitive damages. 31 U.S.C. § 3720D(f)(2). Federal law further bars an employer from discharging, refusing to employ, or taking disciplinary action against an individual on the ground that the individual is subject to garnishment by ED. 31 U.S.C. § 3720D(e)(1). The law authorizes an individual subject to such action by an employer to sue the employer and, if he or she prevails, recover attorney's fees and, in it's the court's discretion, receive reinstatement, punitive damages and back pay. 31 U.S.C. § 3720D(e)(1).

Termination of the debtor's employment after you receive the Order does not end your responsibility under the order; the Order applies to any amounts you are obligated to withhold from compensation payable after termination to the debtor, and the employer remains liable for amounts that should have been withheld and paid over by the employer prior to the termination of employment, but were not.



Frequently-Asked Questions:

1. Must I change the garnishment withholding from 10% to 15% of my employee's wages? If so, why?

The U.S. Department of Education can now order that 15% of a debtor's disposable pay be withheld. The legal basis for this increase is Section 31001(o) of the Debt Collection Improvement Act of 1996, codified at 31 U.S.C. § 3720D.

If ED has already issued a garnishment order for withholding at 10%, ED may, under this new authority, issue a new order for withholding at a greater rate. Employers should continue to honor any ED garnishment order unless and until ED issues an order for a different rate under the new law. If and when ED issues a new order, the employer will then be obligated to withhold at a different rate.

2. If another party is already garnishing my employee's pay, do I still have to comply with the Administrative Wage Garnishment (AWG) Order?

Yes, but the amount you must withhold may be reduced, or Federal law may prevent you from honoring ED's order. Federal law (15 USC §1673) imposes a maximum on how much can be garnished at any one time; that maximum is 25% of the employee's disposable pay. A garnishment order ordinarily requires the employer to withhold and pay the creditor the full amount allowed by law (generally 25% of disposable pay). However, non-judicial, administrative wage garnishment orders, such as those issued by ED or student loan guarantors, however, require the employer to withhold a smaller sum – either 10% (student loan garnishments) or 15% (Federal agency garnishments), leaving part of the debtor's disposable pay available to honor a junior garnishment order

Remember: This same Federal law also protects from garnishment a "floor" level of income equal to 30 times the Federal minimum wage per week, if that amount is greater than 25% of the debtor's disposable pay.

Remember: Applicable law may limit the effective life of some garnishment orders, after which a newer, more junior order may take effect; in contrast, AWG Orders do not expire until the full amount has been paid

3. I have received an AWG withholding order from a guaranty agency. Is a non-Federal organization authorized to garnish employee wages for student loan debts?

Yes, guaranty agencies are authorized to garnish employee wages for student loan debts under the Higher Education Act. Student loan guarantors may garnish a portion of defaulted borrowers' wages (Up to 10% of disposable pay) to recover on Federally-reinsured loans they hold. For a list of guaranty agencies, see the "Our Partners" section at the bottom of this web page. If you have a question concerning a guaranty agency, call our office at (404) 562-6013.

4. I am told that my state law forbids wage garnishment, so can't I just ignore the

AWG Order?

No. Federal law expressly provides that garnishment orders issued under its authority take effect notwithstanding any provision of State law that would limit, prohibit, or require a court order for wage garnishment. 31 U.S.C. § 3720D(a).

5. What are the consequences if I fail to comply with the garnishment order?

A non-compliant employer will be liable for, and subject to, suit by the Department to recover any amount that the employer fails to withhold after receipt of the garnishment order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages.

6. Can I impose a fee for administering this? If I can, who pays?

That depends on state law; some states may permit an employer to assess a fee or charge on the employee for handling a garnishment order. The Department will not pay any administrative fee, and regards the employer to be obligated to remit the full amount mandated by the order.

7. Debtor states he/she handles payroll and will not garnish his/her own salary.

The Order legally obligates the employer to withhold and pay. The employer is liable for actions of its employees in ignoring or refusing to honor a garnishment order.

8. My company's attorney, or a State official, has advised you not to honor the wage garnishment order.

Federal law requires the employer to comply with the garnishment order regardless of whether State law or company policy favors or prohibits wage garnishment. Under Federal law, the employer is liable for any amounts not paid pursuant to the Order, as well as the cost to the government of enforcing that liability.

9. The debtor's salary is currently being garnished to collect a student loan held by a Guaranty Agency. Can I wait to comply with Education's wage garnishment order until that prior garnishment order is satisfied in full?

Federal law generally allows garnishment of up to 25% of an employee's disposable pay. 15 U.S.C. § 1673(a). Student loan guarantors are authorized to garnish up to 10% of a debtor's disposable pay. An employer already served with an order from a loan guarantor may be able to honor both that order and a later-issued order from ED simultaneously.

10. The employee's salary is subject to a prior garnishment and my company policy is honor only one garnishment at a time.

If any portion of the debtor's wages is available under Federal law to honor the ED garnishment order, the employer must honor the ED order. If the senior (earlier) garnishment order requires withholding of less than 25% of the employee's disposable pay, the employer may be able to honor in part the order issued by ED, provided that the total amount withheld under both orders does not exceed, generally, 25% of the employee's disposable pay. For example, if an employee's salary is already being garnished by an order of a loan guarantor that covers 10% of the debtor's disposable pay, ED can collect the full amount required under its ordered, up to – under new authority - 15% of the debtor's disposable pay. On the other hand, if the prior garnishment garnishes 20% of the employee's disposable pay, then ED may collect only 5% until the prior order is fully satisfied or terminated.

11. I have deducted the amount given to me on the first order as the amount owed by the employee to ED. Should I stop garnishing the employee's wages?

No. The Order specifies that the balance stated there is the amount owed as of a specific date (See SF- 329B, items no. 14 and 15). Interest continues to accrue on the unpaid principal balance, and Education uses part of the payments received to defray collection costs incurred for this debt. You should continue to withhold until you are notified to stop withholding.

12. My employee resigned his position and took a job with a new company to avoid garnishment. What should I do?

If known, please provide ED with the new employment information if available.

13. My company operates in a state in which the law does not allow wage garnishments. Can I ignore the garnishment order from ED?

No. Federal law expressly provides that garnishment orders issued under its authority take effect notwithstanding any provision of State law that would limit or prohibit wage garnishment. 31 U.S.C. § 3720D(a).

14. The State in which my company operates does not permit garnishment without a court order. Can I ignore the garnishment order from ED?

No. Federal law expressly provides that garnishment orders issued under its authority take effect notwithstanding any provision of State law that would limit, prohibit, or require a court order for wage garnishment. 31 U.S.C. § 3720D(a).

15. Why does the debt balance shown on the Confirmation Report not appear to reflect the full amount already withheld and paid to ED?

The report amount reflects principal and interest (ED's balance), which includes interest that has accrued since the date of the order, and ED has used some of the amount paid to defray collection costs. Near the end of the garnishment the employer will be notified of the remaining balance.

16. Where can the debtor/employer call concerning a garnishment overpayment?

Employers with additional questions about wage withholding for defaulted student loans should contact: Administrative Wage Garnishment Branch, 404-562-6013.

17. The employee's salary is subject to a prior child support withholding totaling over 25% of his/her salary. What should I do?

Complete and return the Employer Certification form or send a letter to the U.S. Department of Education advising us of the situation. We will send a Notice of Cancellation of Order for Withholding of Wages notice for your records.

18. How do I apply the garnishment order to an employee's salary that varies each pay period?

Apply any garnishment order for any pay period in which the debtor's disposable pay exceeds thirty times the current Federal hourly minimum wage (currently \$154.50 weekly @ \$5.15 per hour). Withhold under the order from the amount in excess of that floor, provided that the total withheld on all orders does not exceed 25% of the debtor's disposable pay for that pay period.

19. Do I have to complete and return the Employer Certification form?

Yes. Federal regulations require you to complete and return the certification within 20 days of receipt. 34 CFR 34.21.

If you have additional questions about wage garnishment for defaulted student loans or grant overpayments, contact: Administrative Wage Garnishment Branch, 404-562-6013.

Attachments and Instructions



**FEDERAL
STUDENT
AID**

UNITED STATES DEPARTMENT OF EDUCATION
61 FORSYTH STREET, ROOM 19T89
ATLANTA, GA 30303
PHONE NUMBER: 404-562-6013 FAX NUMBER: 404-562-6110

Date

Employer Name
Attention
Employer Address 1
Employer Address 2
Employer City, Employer St Zip

Letter to Employer & Important Notice to Employer

Dear Employer,

One of your employees has been identified as owing a delinquent nontax debt to the United States. The Debt Collection Improvement Act of 1996 (DCIA), permits Federal agencies to garnish the pay of individuals who owe such debt without first obtaining a court order. Enclosed is a Wage Garnishment Order, directing you to withhold a portion of the employee's pay each pay period and to forward those amounts to us. We have previously notified the employee that this action was going to take place and provided the employee with the opportunity to dispute the debt.

As both a businessperson and a taxpayer, you can understand and appreciate the importance of ensuring that duly owed debts do not go unpaid. Your cooperation in complying with the enclosed Wage Garnishment Order will assist in our efforts to collect the billions of dollars in delinquent nontax debt owed to the United States. A Wage Garnishment Worksheet is enclosed to assist you in determining the proper amount to withhold.

Please read the enclosed documents carefully. They contain information concerning your responsibilities to comply with this order. If you have any questions, please call the contact name listed on the Order.

Thank you for your cooperation.

See enclosed: **Important Notice to Employer.**

Enclosures: **Wage Garnishment Order (SF-329B)**
 Wage Garnishment Worksheet (SF-329C)
 Employer Certification (ED-329D)

Important Notice to Employer

Federal Law (31 U.S.C. 3720D, 31 C.F.R. 285.11) Provides:

1. **Federal Law supersedes State Law.** Federal Law applies to wage garnishment pursuant to the Wage Garnishment Order notwithstanding State Law.
2. **Disposable pay.** For purposes of Wage Garnishment Order, “disposable pay” means the employee’s compensation (including, but not limited to, salary, overtime, bonuses, commissions, sick leave and vacation pay) from an employer after the deduction of health insurance premiums and any amounts required by law to be withheld. Proper deductions include Federal, State, and Local taxes, State unemployment and disability taxes, social security taxes, and involuntary pension contributions, but do not include voluntary pension or retirement plan contributions, union dues, or amounts withheld pursuant to a court order, and the like. A Wage Garnishment Worksheet is included with the Wage Garnishment Order to assist the employer in calculating disposable pay and the wage garnishment amount.
3. **Multiple Withholding Orders.** If in addition to the Wage Garnishment Order you, as employer, are served with other withholding orders pertaining to the same employee, then you may withhold sufficient amounts to satisfy the multiple withholding orders simultaneously, up to the maximum amount of **25%**. The Wage Garnishment Order should be paid before garnishment or withholding order that you receive after you receive this one, **Except** that family support orders always should be paid first. Upon termination of the family support or prior withholding order(s), the amount withheld for the Wage garnishment Order shall be increased to the amount stated in Section 2 of the Wage Garnishment Order.
4. **Pay cycles.** An employer is not required to vary its normal pay and disbursement cycles to comply with the Wage Garnishment Order.
5. **Failure to Comply.** An employer who fails to comply with the Wage Garnishment order shall be liable for any amounts that the employer fails to withhold under the Wage Garnishment Order, plus Attorney’s Fees and costs incurred by the creditor agency to enforce the Wage Garnishment Order. In addition, the employer who fails to comply with the Wage Garnishment Order may be liable for punitive damages as determined by a court of competent jurisdiction.
6. **No Retaliation.** An individual may sue any employer who discharges from employment, refuses to employ, or takes disciplinary action against an individual subject to a Wage Garnishment Order by reason of the fact that the Individual’s wages have been subject to garnishment under 31 U.S.C. 3720D. A court of competent jurisdiction shall award Attorney’s Fees to a prevailing employee, and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

Standard Form 329A(11-98)

**UNITED STATES GOVERNMENT
WAGE GARNISHMENT ORDER (SF-329B)**

1. Date of this Order: Insert Date	2. Date Mailed to Employer: Insert Date	3. Credit Agency Tracking No. (Refer to this number in all correspondence): Insert SSN
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RE: 4. Employee Name Insert Debtor's Name	5. Employee Social Security No: Insert Debtor's SSN
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TO: 6. Employer: Insert Employer Name	7. Employer Mailing Address (include street address, p. o. box, suite no., city, state, zip code): Employer Address 1 Employer Address 2 Emp. City, Emp. St, Emp. Zip
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FROM: 8. Creditor Agency United States Department of Education	9. Creditor Agency Mailing Address (include street address, city, state, zip code): National Payment Center P.O. Box 4142 Greenville, TX 75403
10. Contact Name: Lynda Gaddy	11. Telephone No.: 404-562-6013
12. Internet e-mail address: FSA.AWG@ED.GOV	13. FAX No.: 404-562-6110

14. Amount Due: \$ Insert Balance Due	15. As of (Month/Day/Year): Insert Date
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Note: The amount due may be increased as a result of additional interest, penalties, and other costs being assessed by the creditor Agency.

Section 1. ORDER. YOU, the Employer, are hereby ORDERED to deduct from all disposable pay paid by you to the Employee the Wage Garnishment Amount described in Section 2 of this Order. You are ordered to begin deductions on the first payday after you receive this Order. If the first payday is within 10 days after you receive this Order, you may begin deductions on the second payday after you receive this Order. You are ordered to continue deductions until you receive notification from the Creditor Agency to suspend or discontinue deductions. You are further ORDERED to pay the Creditor Agency all Wage Garnishment Amounts deducted by you under this order within three (3) business days of the withholding. Employers are encouraged to make payments electronically, if possible as follows:

Standard Form 329B (11-98)
Prescribed by 31 CFR 285.11
Page 1 of 2

16. ABA Routing No.:	17.Account No.:	18.Agency Location Code (ALC) No.:
19. Account Title:	20. Other information required (i.e., tracking no., debtor name, etc.): Debtor Name: SSN:	

Otherwise, mail checks (postmarked within 3 business days of the withholding) to:

21. Mailing address for check payments:	U.S. Department of Education National Payment Center P.O. Box # 4142 Greenville, TX 75403
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Section 2. WAGE GARNISHMENT AMOUNT.

(a) The Wage Garnishment Amount is \$ _____ per pay period in accordance with an agreement between the Creditor Agency and the Employee.

-OR-

(b) The Wage Garnishment Amount for each pay period is the lesser of:

- (1) _____ % of the Employee’s disposal pay (not to exceed 15%);
- (2) the garnishment amount set forth in 15 U.S.C. 1673(a)(2) (the amount by which the employee’s disposable pay exceeds an amount equivalent to 30times the minimum wage); or
- (3) 25% of the Employee’s disposable pay less the amounts withheld under the withholding orders with priority. A withholding order with priority is valid, legally enforceable withholding order that either (1) was received by the Employer prior to this Order, or (2) is an order for family support regardless of date received. Upon termination of n withholding order with priority or upon receipt of an order for family support subsequent to the receipt of this Order, the amount withheld for this order shall be recalculated based on the formula described in this Section 2 (b).

Note: The Employer may use the enclosed Wage Garnishment Worksheet to calculate the Wage Garnishment Amount.

CREDITOR AGENCY CERTIFICATION. The CREDITOR AGENCY hereby certifies that this order is issued in accordance with the requirements of 31 U.S.C. § 3720D and 31 C.F.R. § 285.11 and is mailed to the Employer on the date shown above.

CREDITOR AGENCY SIGNATURE

Title: _____

Print Name: _____

Standard Form 329B (11-98)
Prescribed by 31 CFR 285.11

WAGE GARNISHMENT WORKSHEET (SF-329C)

Notice to Employers: The Employer may use a copy of this worksheet each pay period to calculate the Wage Garnishment Amount to be deducted from a debtor's disposable pay. Disposable pay includes, but is not limited to, salary, overtime, bonuses, commissions, sick leave and vacation pay. If section 2(a) of the Wage Garnishment Order specifies the dollar amount to be garnished, the employer does not need to complete this worksheet.

Debtor's Name: _____

Social Security Number: _____

Pay Period Frequency (Select One):

*Weekly or less *Every other week *Two times per month *Monthly *Other (Specify: _____)

DISPOSABLE PAY COMPUTATION

1	Gross Amount Paid to Employee		
2	Amount Withheld		
	a. Federal Income Tax:		
	b. F. I. C. A. (Social Security)		
	c. Medicare		
	d. State Tax (including: income tax, unemployment, disability)		
	e. City/Local tax		
	f. Health Insurance Premiums		
	g. Involuntary Retirement or Pension Plan Payments		
3	Total Allowable Deductions (add lines a - g)		
4	DISPOSABLE PAY (Subtract Line 3 from Line 1)		

WAGE GARNISHMENT AMOUNT COMPUTATION

If the Employee's wages are not subject to any withholding orders with priority, skip to line 8.

5	25% of Disposable Pay (Multiply Line 4 by .25)	
6	Total Amount Withheld Under Other Wage Withholding Orders with Priority. See section 2(b) of the Order.	
7	Subtract line 6 from line 5 (If line 6 is more than line 5 , enter zero)	
8	Multiply the percentage from section 2(b)(1) of the Order by Line 4. (The percentage from section 2(b)(1) of the Order may not exceed 15%). <u>Example:</u> If the percentage from section 2(b)(1) of the Order is 15%, multiply .15 by line 4.	
9	Amount equivalent to 30 times the Federal Minimum Wage (\$5.15)	If the employee is
	paid <u>Line 9 is</u>	paid <u>Line 9 is</u>
	2x per month 669.50	weekly or less 154.50
	334.75	Every other week 309.00
		Monthly
10	Subtract line 9 from line 4 (If line 9 is more than line 4 , enter zero)	
11	WAGE GARNISHMENT AMOUNT	
	LINE 7, 8, OR 10, WHICHEVER AMOUNT IS SMALLEST	

EMPLOYER CERTIFICATON (ED-329D)

NOTICE TO EMPLOYERS: THE EMPLOYE MUST COMPLETE AND RETURN THIS CERTIFICATION TO THE CREDITOR AGENCY WITHIN 20 DAYS OF RECEIPT.

TO BE COMPLETED BY CREDITOR AGENCY:

Date of this Order: Insert Date	Date Mailed to Employer: Insert Date	Credit Agency Tracking No. (Refer to this number in all correspondence): Insert SSN
---	--	---

Creditor Agency: United States Department of Education	Creditor Agency Mailing Address (include street address, city, state, zip code): National Payment Center P.O. Box 4142 Greenville, TX 75403
--	---

Employee Name Insert Debtor's Name	Employee Social Security No: Insert Debtor's SSN
--	--

The remainder of the Employer Certification is to be completed by Employer:

Employer:	Employer Taxpayer Identifying Number:
Employer Address (for future correspondence on this matter):	Employer Contact Person:

Employer Telephone No.:	Employer Fax No.:	Employer E-mail Address:
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***Note:** the employer Taxpayer Identifying Number, required by 31 U.S.C. 7701 (c), will be used to collect and report any delinquent amounts owed by the Employer under this Order.*

1. The Employer received the Wage Garnishment Order concerning the above named employee on _____ (Date).
2. Check one of the following:
 - a. _____ The above named Employee is currently employed with this Employer, or
 - b. _____ The above named Employee is no longer employed by this employer.

Please provide the following information for employees no longer employed:

Employment Termination Date:	Employee's Last Known Address and Telephone No. (if, Known):	Employee's Current Employer (if Known):
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ED FORM 329D (Rev. 7-02)

Prescribed by 31 FR 285.11

Page 1 of 2

Note: If the Employee is no longer employed with this Employer, the Employer does not need to complete the rest of this Certification. Sign and date this certification on page 2 and return to the Creditor Agency.

"FACSMILE"

REPORT DATE: 12/31/98
EDUCATION
PROGRAM-ID GDAWG750
PROGRAM

U.S. DEPARTMENT OF
PAGE NO. 1
FEDERAL FAMILY EDUCATION LOAN
ADMINISTRATIVE WAGE

GARNISHMENT SUBSYSTEM

EMPLOYMENT CONFIRMATION REPORT FOR P-00000000-
000, XYZ CORPORATION

TO: XYZ CORPORATION
99999 XYZ STREET
ATLANTA

GA 30303-3444

PLEASE FILL OUT AND RETURN THE ATTACHED FORM TO THE DEPARTMENT
OF EDUCATION ADDRESS BELOW, ONLY IF YOUR EMPLOYEE'S STATUS HAS
CHANGED. OTHERWISE, USE THIS REPORT FOR INFORMATIONAL PURPOSES
ONLY.

EDUCATION
U.S. DEPARTMENT OF
NATIONAL PAYMENT CENTER
P.O. BOX 4142
GREENVILLE, TX 75403-4142

LEGEND: PAYMENT SCHEDULE: (W) WEEKLY, (B) BI-WEEKLY, (S) SEMI-
MONTHLY, (M) MONTHLY,
PAYMENT TYPE: (F) FIXED AMOUNT, (V) VARIABLE AMOUNT
EMPLOYEE STATUS: (E) EMPLOYED, (U) UNEMPLOYED

NOTE: THE CURRENT CERTIFIED BALANCE MAY BE ADJUSTED DUE TO THE
NUMBER OF APPLICABLE DEBTS
ALSO, THE BALANCE SHOWN WILL NOT BE REDUCED BY THE AMOUNT
OF PAYMENT REMITTED DUE TO ADDITIONAL COSTS, (I.E.
COLLECTION FEES AND ACCRUING INTEREST) SINCE THE TIME THE
LAST PAYMENT WAS RECEIVED.

"FACSMILE"

REPORT DATE: 05/01/00
EDUCATION
PROGRAM- ID: GDAWG750
PROGRAM

U.S. DEPARTMENT OF
PAGE NO: 2
FEDERAL FAMILY EDUCATION LOAN
ADMINISTRATIVE WAGE GARNISHMENT

SUBSYSTEM

EMPLOYMENT CONFIRMATION REPORT FOR P-0000000000-000, XYZ
CORPORATION

		ED		PAYMENT SCHEDULE	PAY TYPE
SSN	DEBTOR NAME	BALANCE	CURRENT	NEW	
CURR	NEW	STATUS	DATE		
000-00-0000	J..DOE	\$ 4,500.00	MONTHLY	_____	V

31 U.S.C. Sec. 3720D. Garnishment

(a) Notwithstanding any provision of State law, the head of an executive, judicial, or legislative agency that administers a program that gives rise to a delinquent nontax debt owed to the United States by an individual may in accordance with this section garnish the disposable pay of the individual to collect the amount owed, if the individual is not currently making required repayment in accordance with any agreement between the agency head and the individual.

(b) In carrying out any garnishment of disposable pay of an individual under subsection (a), the head of an executive, judicial, or legislative agency shall comply with the following requirements:

(1) The amount deducted under this section for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual.

(2) The individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the head of the executive, judicial, or legislative agency, informing the individual of--

(A) the nature and amount of the debt to be collected;

(B) the intention of the agency to initiate proceedings to collect the debt through deductions from pay; and

(C) an explanation of the rights of the individual under this section.

(3) The individual shall be provided an opportunity to inspect and copy records relating to the debt.

(4) The individual shall be provided an opportunity to enter into a written agreement with the executive, judicial, or legislative agency, under terms agreeable to the head of the agency, to establish a schedule for repayment of the debt.

(5) The individual shall be provided an opportunity for a hearing in accordance with subsection (c) on the determination of the head of the executive, judicial, or legislative agency concerning--

(A) the existence or the amount of the debt, and

(B) in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), the terms of the repayment schedule.

(6) If the individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of the individual until the individual has been reemployed continuously for at least 12 months.

(c)(1) A hearing under subsection (b)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (b)(2), and in accordance with such procedures as the head of the executive, judicial, or legislative agency may prescribe, files a petition requesting such a hearing.

(2) If the individual does not file a petition requesting a hearing prior to such date, the head of the agency shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order.

(3) The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(d) The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(e)(1) An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action.

(2) The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(f)(1) The employer of an individual--

(A) shall pay to the head of an executive, judicial, or legislative agency as directed in a withholding order issued in an action under this section with respect to the individual, and

(B) shall be liable for any amount that the employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages.

(2)(A) The head of an executive, judicial, or legislative agency may sue an employer in a State or Federal court of competent jurisdiction to recover amounts for which the employer is liable under paragraph (1)(B).

(B) A suit under this paragraph may not be filed before the termination of the collection action, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period.

(3) Notwithstanding paragraphs (1) and (2), an employer shall not be required to vary its normal pay and disbursement cycles in order to comply with this subsection.

(g) For the purpose of this section, the term "disposable pay" means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by any other law to be withheld.

(h) The Secretary of the Treasury shall issue regulations to implement this section.

(Added Pub. L. 104-134, title III, Sec. 31001(o)(1), Apr. 26, 1996, 110 Stat. 1321-369.)

Education has relied on Section 488A of the Higher Education Act to authorize garnishment, and many outstanding garnishment orders issued by Education and now in effect rely on this authority. The text of this section is included for your convenience.

HEA § 488A Wage garnishment requirement

(a) Garnishment requirements

Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this title that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B of this subchapter on which the guaranty agency received reimbursement from the Secretary under section 428(c) of this title, with the guaranty agency holding the loan, as appropriate, provided that--

(1) the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) of this section on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of the individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph;

(7) if an individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of such individual until such individual has been reemployed continuously for at least 12 months; and

(8) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(b) Hearing requirements

A hearing described in subsection (a)(5) of this section shall be provided prior to issuance of a garnishment order of the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2) of this section, and in accordance with such procedures as the Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) of this section upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) of this section may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(c) Notice requirements

The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(d) "Disposable pay" defined

For the purpose of this section, the term "disposable pay" means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by law to be withheld.

(Pub.L. 89-329, Title IV, § 488A, as added Pub.L. 102-164, Title VI, § 605(a), Nov. 15, 1991 105 Stat. 1066.)