

U.S. Department of Education  
Employer's Garnishment Handbook  
Revised  
February 10, 2009



**Friday, February 20, 2009**

# Table of Content

Introduction Overview.....	3
Legislative Authority.....	4
Under This Authority:.....	4
Sec. 34.19 Amounts To Be Withheld Under A Garnishment Order.....	4
Sec. 34.20 Amount To Be Withheld Under Multiple Garnishment Orders.....	5
Sec. 34.21 Employer Certification.....	5
Sec. 34.22 Employer Responsibilities.....	5
Sec. 34.26 Ending Garnishment.....	6
Sec. 34.27 Actions By Employer Prohibited By Law.....	6
Sec. 34.28 Refunds Of Amounts Collected In Error.....	6
Sec. 34.29 Enforcement Action Against Employer For Noncompliance With Garnishment Order.....	6
Sec. 34.30 Application Of Payments And Accrual Of Interest.....	7
Basic Steps for Employers to Follow for Withholding.....	7
ED's Notices to the Employer of Garnishment Action.....	8
Employer's Responsibility.....	8
Employment Confirmation Report.....	8
Warning For Failure To Remit Payments.....	8
Calculating The Amount Of Earnings To Be Withheld.....	8
How To Remit Withholdings To ED.....	9
Step Action.....	9
Frequency of Payment:.....	9
Withholding For Two Or More Debtors.....	9
Handling Multiple Garnishment Orders On A Debtor.....	9
Informing ED.....	9
Federal Limits On Amounts Withheld For Garnishments.....	9
Debtors Subject To A Prior Student Loan Or Federal Agency Garnishment.....	10
When to Stop Withholding.....	11
Notification to Stop Wage Garnishment.....	11
When the Debtor Ends Employment.....	11
When the Debtor Files for Relief in Bankruptcy.....	11
When the Employer Files for Relief in Bankruptcy.....	11
Employer Compliance is Mandatory!.....	11
Frequently Asked Questions:.....	12

## Introduction Overview

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) 562-6012.

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

## Legislative Authority

34 CFR Part 34: These regulations implement for the Department of Education the provisions for administrative wage garnishment in the Debt Collection Improvement Act of 1996 (DCIA). The DCIA authorizes Federal agencies to garnish administratively, that is, without court order, the disposable pay of an individual who is not a Federal employee to collect a delinquent nontax debt owed to the United States. These regulations implement this authority for a debt owed to the United States under a program administered by the Department of Education.

This authority, commonly referred to as "**Wage Garnishment**", adds another collection resource to the Department of Education's debt recovery of amounts outstanding on loan designated as educational assistance.

### Under This Authority:

- ED is authority to garnish fifteen (15) percent of the customer's disposable salary.
- Customers are notified to pay in full within 30 days to avoid garnishment.
- Customers can make alternate payment arrangements to avoid garnishment. Payments must be at least 15% of the customer's disposable pay.
- Customers can receive hardship consideration.
- There is no statute of limitations on AWG.
- Customers can request a hearing if they dispute the existence of the debt, or the amount of the debt or can prove that garnishment of 15% of their disposable pay would constitute an extreme financial hardship.
- ED cannot garnish a customer's wages if they have been involuntarily separated from employment during the last twelve (12) months.
- The law governing AWG prohibits an employer from discharging the customer because of the garnishment.

### Sec. 34.19 Amounts To Be Withheld Under A Garnishment Order.

(a)(1) After an employer receives a garnishment order we issue, the employer must deduct from all disposable pay of the debtor during each pay period the amount directed in the garnishment order unless this section or Sec. 34.20 require a smaller amount to be withheld.

(2) The amount specified in the garnishment order does not apply if other law, including this section, requires the employer to withhold a smaller amount.

(b) The employer must comply with our garnishment order by withholding the lesser of--

(1) The amount directed in the garnishment order; or--

(2) The amount specified in 15 U.S.C. 1673(a)(2) (Restriction on Garnishment); that is, the amount by which a debtor's disposable pay exceeds an amount equal to 30 times the minimum wage. (See 29 CFR 870.10.)

**(Authority: 31 U.S.C. 3720D)**

### **Sec. 34.20 Amount To Be Withheld Under Multiple Garnishment Orders.**

If a debtor's pay is subject to several garnishment orders, the employer must comply with our garnishment order as follows:

(a) Unless other Federal law requires a different priority, the employer must pay us the amount calculated under Sec. 34.19(b) before the employer complies with any later garnishment orders, except a family support withholding order.

(b) If an employer is withholding from a debtor's pay based on a garnishment order served on the employer before our order, or if a withholding order for family support is served on an employer at any time, the employer must comply with our garnishment order by withholding an amount that is the smaller of--

(1) The amount calculated under Sec. 34.19(b); or

(2) An amount equal to 25 percent of the debtor's disposable pay less the amount or amounts withheld under the garnishment order or orders with priority over our order.

(c)(1) If a debtor owes more than one debt arising from a program we administer, we may issue multiple garnishment orders.

(2) The total amount withheld from the debtor's pay for orders we issue under paragraph (c)(1) of this section does not exceed the amounts specified in the orders, the amount specified in Sec. 34.19(b)(2), or 15 percent of the debtor's disposable pay, whichever is smallest. [[Page 8146]]

(d) An employer may withhold and pay an amount greater than that amount in paragraphs (b) and (c) of this section if the debtor gives the employer written consent.

**(Authority: 31 U.S.C. 3720D)**

### **Sec. 34.21 Employer Certification.**

(a) Along with a garnishment order, we send to an employer a certification in a form prescribed by the Secretary of the Treasury.

(b) The employer must complete and return the certification to us within the time stated in the instructions for the form.

(c) The employer must include in the certification information about the debtor's employment status, payment frequency, and disposable pay available for withholding.

**(Authority: 31 U.S.C. 3720D)**

### **Sec. 34.22 Employer Responsibilities.**

(a)(1) Our garnishment order indicates a reasonable period of time within which an employer must start withholding under the order.

(2) The employer must promptly pay to the Department all amounts the employer withholds according to the order.

(b) The employer may follow its normal pay and disbursement cycles in complying with the garnishment order.

(c) The employer must withhold the appropriate amount from the debtor's wages for each pay period until the employer receives our notification to discontinue wage garnishment.

(d) The employer must disregard any assignment or allotment by an employee that would interfere with or prohibit the employer from complying with our garnishment order, unless that assignment or allotment was made for a family support judgment or order.

**(Authority: 31 U.S.C. 3720D)**

### **Sec. 34.26 Ending Garnishment.**

- (a)(1) A garnishment order we issue is effective until we rescind the order.
- (2) If an employer is unable to honor a garnishment order because the amount available for garnishment is insufficient to pay any portion of the amount stated in the order, the employer must--
  - (i) Notify us; and
  - (ii) Comply with the order when sufficient disposable pay is available.
- (b) After we have fully recovered the amounts owed by the debtor, including interest, penalties, and collection costs, we send the debtor's employer notification to stop wage withholding.

**(Authority: 31 U.S.C. 3720D)**

### **Sec. 34.27 Actions By Employer Prohibited By Law.**

An employer may not discharge, refuse to employ, or take disciplinary action against a debtor due to the issuance of a garnishment order under this part.

**(Authority: 31 U.S.C. 3720D)**

### **Sec. 34.28 Refunds Of Amounts Collected In Error.**

- (a) If a hearing official determines under Sec. 34.16 and 34.17 that a person does not owe the debt described in our notice or that an administrative wage garnishment under this part was barred by law at the time of the collection [[Page 8147]] action, we promptly refund any amount collected by means of this garnishment.
- (b) Unless required by Federal law or contract, we do not pay interest on a refund.

**(Authority: 31 U.S.C. 3720D)**

### **Sec. 34.29 Enforcement Action Against Employer For Noncompliance With Garnishment Order.**

- (a) If an employer fails to comply with Sec. 34.22 to withhold an appropriate amount from wages owed and payable to an employee, we may sue the employer for that amount.
- (b) (1) we do not file suit under paragraph (a) of this section before we terminate action to enforce the debt as a personal liability of the debtor.
- (2) However, the provision of paragraph (b)(1) of this section may not apply if earlier filing of a suit is necessary to avoid expiration of any applicable statute of limitations.
- (c)(1) For purposes of this section, termination of an action to enforce a debt occurs when we terminate collection action in accordance with the FCCS, other applicable standards, or paragraph (c)(2) of this section.
- (2) We regard termination of the collection action to have occurred if we have not received for one year any payments to satisfy the debt, in whole or in part, from the particular debtor whose wages were subject to garnishment.

(Authority: 31 U.S.C. 3720D)

**Sec. 34.30 Application Of Payments And Accrual Of Interest.**

We apply payments received through a garnishment in the following order--

- (a) To costs incurred to collect the debt;
- (b) To interest accrued on the debt at the rate established by--
  - (1) The terms of the obligation under which it arises; or
  - (2) Applicable law; and
- (c) To outstanding principal of the debt.

(Authority: 31 U.S.C. 3720D)

## **Basic Steps for Employers to Follow for Withholding**

### **Step Action**

1. 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.

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.

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.

2. 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).

3. Send the amount deducted to ED according to the instructions. **Submit the amount withheld**, payable to the U.S. Department of Education to:

**U.S. Department of Education  
National Payment Center  
P.O. Box 4142  
Greenville, TX 75403-4142.**

### **Your Check Should Include:**

- Employee Name And Social Security Number;
- Employer Name And Federal Employer Identification Number;
- Notation Indicating That It Is A Wage Withholding Payment

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.

4. **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.

#### **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 404-562-6012.

#### **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 -6012

#### **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:

- 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 **31 U.S.C. 3720D**. 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 **31 U.S.C. 3720D** 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 404/562-6012.

- 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 as many copies as needed.

### **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 because 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 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. 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) 562-6012.

### **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 order, 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 \$262 weekly @ \$6.55 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, 404-562-6012.**