

**DEPARTMENT OF EDUCATION****34 CFR Part 34****Administrative Wage Garnishment**

**AGENCY:** Office of the Chief Financial Officer, Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** 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.

**DATES:** These regulations are effective March 21, 2003.

**FOR FURTHER INFORMATION CONTACT:**

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If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

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**SUPPLEMENTARY INFORMATION:** On April 12, 2002, the Secretary published in the **Federal Register** a notice of proposed rulemaking (NPRM) (67 FR 18072) for implementation of the wage garnishment authority in the DCIA. This document contains the final regulations for the rules that were proposed in that NPRM. These final regulations contain a few changes from the NPRM.

**Analysis of Comments and Changes**

In response to the NPRM, we received comments from two parties. An analysis of the comments and of the changes in the regulations since publication of the NPRM is published as an appendix at the end of these final regulations.

**Regulatory Flexibility Act Certification**

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

Although a substantial number of small entities will be subject to these regulations and to the certification requirement in these regulations, as explained in the NPRM, the requirements will not have a significant economic impact on these entities.

**Paperwork Reduction Act of 1995**

These regulations do not contain any information collection requirements.

**Assessment of Educational Impact**

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number does not apply.)

**List of Subjects in 34 CFR Part 34**

Administrative practice and procedure, Claims, Debts, Garnishment of wages, Hearing and appeal procedures, Salaries, Wages.

Dated: February 12, 2003.

**Rod Paige,**

*Secretary of Education.*

For the reasons discussed in the preamble, the Secretary amends title 34 of the Code of Federal Regulations by adding a new part 34 to read as follows:

**PART 34— ADMINISTRATIVE WAGE GARNISHMENT**

Sec.

- 34.1 Purpose of this part.
- 34.2 Scope of this part.
- 34.3 Definitions.
- 34.4 Notice of proposed garnishment.
- 34.5 Contents of a notice of proposed garnishment.
- 34.6 Rights in connection with garnishment.
- 34.7 Consideration of objection to the rate or amount of withholding.
- 34.8 Providing a hearing.
- 34.9 Conditions for an oral hearing.
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- 34.11 Timely request for a hearing.
- 34.12 Request for reconsideration.
- 34.13 Conduct of a hearing.
- 34.14 Burden of proof.
- 34.15 Consequences of failure to appear for an oral hearing.
- 34.16 Issuance of the hearing decision.
- 34.17 Content of decision.
- 34.18 Issuance of the wage garnishment order.
- 34.19 Amounts to be withheld under a garnishment order.
- 34.20 Amount to be withheld under multiple garnishment orders.
- 34.21 Employer certification.
- 34.22 Employer responsibilities.
- 34.23 Exclusions from garnishment.
- 34.24 Claim of financial hardship by debtor subject to garnishment.
- 34.25 Determination of financial hardship.
- 34.26 Ending garnishment.
- 34.27 Actions by employer prohibited by law.
- 34.28 Refunds of amounts collected in error.
- 34.29 Enforcement action against employer for noncompliance with garnishment order.
- 34.30 Application of payments and accrual of interest.

**Authority:** 31 U.S.C. 3720D, unless otherwise noted.

**§ 34.1 Purpose of this part.**

This part establishes procedures the Department of Education uses to collect money from a debtor's disposable pay by means of administrative wage garnishment to satisfy delinquent debt owed to the United States.

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

**§ 34.2 Scope of this part.**

(a) This part applies to collection of any financial obligation owed to the United States that arises under a program we administer.

(b) This part applies notwithstanding any provision of State law.

(c) We may compromise or suspend collection by garnishment of a debt in accordance with applicable law.

(d) We may use other debt collection remedies separately or in conjunction with administrative wage garnishment to collect a debt.