**HANDBOOK FOR EMPLOYERS**

*WAGE WITHHOLDING FOR DEFAULTED STUDENT LOANS*

**AUTHORITY**

The following organizations have agreements with the U.S. Department of Education to participate in the Federal Family Education Loan (FFEL) Program as guaranty agencies under Section 428(b) of the Higher Education Act of 1965, as amended (HEA). Congress has authorized the guaranty agencies on this list, such as Educational Credit Management Corporation (ECMC) to collect from individuals on their defaulted federal student loans through issuing orders to administratively garnish up to 15% of the individual’s disposable pay (20 U.S.C. § 1095a; 34 C.F.R. § 682.410(b)(9)). **This law preempts any state law that would conflict with or hinder satisfaction of the requirements of these provisions** (34 C.F.R. § 682.410(b)(8)).

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| AMERICAN STUDENT ASSISTANCE (MASSACHUSETTS) | STUDENT LOAN GUARANTEE FOUNDATION OF ARKANSAS |
| COLORADO STUDENT LOAN PROGRAM  | EDUCATION ASSISTANCE CORPORATION (SOUTH DAKOTA) |
| EDUCATIONAL CREDIT MANAGEMENT CORPORATION | FLORIDA DEPARTMENT OF EDUCATION/OSFA |
| GEORGIA HIGHER EDUCATION ASSISTANCE FOUNDATION | GREAT LAKES HIGHER EDUCATION CORPORATION (WI) |
| ILLINOIS STUDENT ASSISTANCE COMMISSION | IOWA COLLEGE STUDENT AID COMMISSION |
| KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY | LOUISIANA OFFICE OF STUDENT FINANCIAL ASSISTANCE |
| FINANCE AUTHORITY OF MAINE | MICHIGAN HIGHER EDUCATION ASSISTANCE AUTHORITY |
| MISSOURI DEPARTMENT OF HIGHER EDUCATION | MONTANA GUARANTEED STUDENT LOAN PROGRAM |
| NATIONAL STUDENT LOAN PROGRAM (NEBRASKA) | NEW HAMPSHIRE HIGHER EDUCATION ASSISTANCE FOUNDATION |
| NEW JERSEY HIGHER EDUCATION ASSISTANCE AUTHORITY | NEW MEXICO STUDENT LOAN GUARANTEE CORPORATION |
| NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION | NORTH CAROLINA STATE EDUCATION ASSISTANCE AUTHORITY |
| STUDENT LOANS OF NORTH DAKOTA  | NORTHWEST EDUCATION LOAN ASSOCIATION (NELA) |
| OKLAHOMA GUARANTEED STUDENT LOAN PROGRAM  | AMERICAN EDUCATION SERVICES/PHEEA |
| RHODE ISLAND HIGHER EDUCATION ASSISTANCE AUTHORITY | SOUTH CAROLINA STUDENT LOAN CORPORATION |
| TENNESSEE STUDENT ASSISTANCE CORPORATION | TEXAS GUARANTEED STUDENT LOAN CORPORATION |
| USA FUNDS  | UTAH HIGHER EDUCATION ASSISTANCE AUTHORITY |
| VERMONT STUDENT ASSISTANCE CORPORATION |  |

**THE BASIC STEPS FOR EMPLOYERS TO FOLLOW FOR WAGE WITHHOLDING**

1. Read the Order of Withholding from Earnings (enclosed), which contains the instructions on how to withhold and remit the required amounts.

2. Calculate and deduct the amount to be withheld from the employee’s pay, beginning with the first pay period occurring after the employer receives the Order of Withholding from Earnings.

3. Send the amount deducted to ECMC according to the instructions.

4. Repeat steps 2 and 3 each payday.

ACKNOWLEDGMENT

Employers should respond by completing and returning the Employer Acknowledgment of Wage Withholdingform within 10 business days. If the employee is no longer employed by your organization when you receive the Order of Withholding from Earnings, simply indicate this on the form.

EMPLOYEE NOTIFICATION

The employee will already have received notice that wage withholding will occur. Before you receive an Order of Withholding from Earnings, the employee will have:

* Been sent default notices and a Notice Prior to Wage Withholding.
* Had an opportunity to contest the withholding.
* Been informed of his or her rights and responsibilities in the process.
* Had an opportunity to avoid wage withholding by entering into voluntary repayment.

AMOUNT OF WITHHOLDING

The instructions below explain how to calculate the amount of earnings to be withheld. Please use the Administrative Wage Garnishment (AWG) Withholding Worksheet found at the end of this document.

1. Read the Order of Withholding from Earnings.

2. Identify the employee named in the Order of Withholding from Earnings.

3. Identify the employee’s gross earnings for the pay period. Earnings are defined as compensation paid, or for payable personal services, whether denominated as wages, salary, commission, bonus or otherwise.

4. Identify amounts that should be excluded from withholding. These are limited to amounts required by law to be withheld, such as state (if applicable) and federal income tax, federal FICA, OASI tax (Social Security) and health insurance premiums. The employer should not include deductions for savings bonds, employee contributions to voluntary retirement plans, etc.

5. Calculate disposable earnings by subtracting excluded amounts (Step 4) from the employee’s gross earnings
(Step 3).

6. Compute the required withholding by multiplying the employee’s disposable earnings (Step 5) by .15. The resulting figure is the amount to withhold from the employee’s wages each payday. The employer may round off the figure to a flat dollar amount, so long as the resulting figure does not exceed 15% of the employee’s disposable pay.

HOW TO REMIT THE EARNINGS WITHHELD

1. Cut a check for the amount calculated. Make checks payable toECMC.

2. Be sure each check includes the information listed below:

* Employee’s name
* Last four digits of employee’s Social Security number
* Employer’s name
* Notation indicating that this is a wage withholding payment or payments
* Employer’s federal Employer Identification Number

3. Send checks to the address identified on the Order of Withholding from Earnings

FREQUENCY OF PAYMENTS

Although deductions should be made for each pay period (whether weekly, biweekly, monthly, etc.), remittance need not be made more than once each month. The employer is not required to change their normal pay and disbursement cycles to comply with the Order of Withholding from Earnings.

TWO OR MORE EMPLOYEES

If the employer is making payments to ECMC for two or more employees, the employer may combine payments as long as the check stub or transmittal sheet details the employees’ names, amounts remitted for each employee and last four digits of each applicable employee’s Social Security number.

**WHEN TO STOP WITHHOLDING**

RELEASE OF AN ORDER

To inform an employer to stop withholding, ECMC will send a Release from the Order of Withholding form to the employer. The employer should continue to withhold earnings from the employee’s paycheck until receiving a release.

WHEN THE EMPLOYEE ENDS EMPLOYMENT

When an employee for whom the employer has been withholding earnings terminates employment with their organization, the employer must notify ECMC in writing within 10 business days. In addition, the employer must supply the employee’s last known address and the name and address of his/her new employer, if known. This requirement will help ensure the employee can be located and that the new employer will be notified promptly of the withholding requirement.

**EMPLOYER COMPLIANCE**

NONCOMPLIANCE

If the employer fails to withhold wages following the receipt of the withholding order, ECMC may sue the employer to recover any amount that the employer fails to withhold, attorney’s fees, costs, and may be awarded punitive damages at the court’s discretion (20 U.S.C. § 1095a(a)(6); 34 C.F.R. § 682.410(b)(9)(P)).

RETALIATION

Under federal law, an employer may not discharge from employment, or refuse to employ or take disciplinary action against an individual, because that individual is subject to wage withholding. The employee may sue an employer who takes such action.

TERMINATION

If the employee’s employment ceases for any reason after you receive the Order of Withholding fromEarnings it does not terminate your liability for amounts you were required to withhold during the employee’s employment.

**MULTIPLE WITHHOLDINGS**

# LIMITATIONS

If the employee is subject to multiple garnishments during a pay period, federal law (15 U.S.C. § 1673) may limit your ability to withhold the full amount called for under the Order of Withholding fromEarnings for that pay period. If so, you must inform us, in writing, immediately.

**AWG WITHHOLDING WORKSHEET**

**Enter employee’s disposable pay. 1. \_\_\_\_\_\_\_\_\_\_\_**

Disposable pay is determined by: (a) calculating the total compensation paid or payable for the employee’s services (e.g., wages, salary, commissions, bonus, severance pay, etc.); (b) subtracting from that amount the sum of all amounts required by law to be withheld from that compensation, such as state (if any) and federal income tax and federal FICA, OASI tax (Social Security) and health insurance premiums. You should not subtract amounts withheld for savings bonds, employee contributions to voluntary retirement plans and the like. Also, **be sure that you do not subtract garnishments;** these are considered instead in LINE 7.

**Multiply the amount in Line 1 by 15% (.15). 2. \_\_\_\_\_\_\_\_\_\_\_**

Under 20 U.S.C. § 1095a(a)(1), the amount deducted for any pay period may not exceed 15% of disposable pay, unless the individual consents, in writing, to a greater percentage.

**Multiply the amount in Line 1 by 25% (.25). 3. \_\_\_\_\_\_\_\_\_\_\_**

The Consumer Credit Protection Act (15 U.S.C. § 1671) provides that: The maximum part of the aggregate disposable earnings of an individual for any workweek, which is subject to garnishment may not exceed 25%.

**Enter the applicable federal wage standard. 4. \_\_\_\_\_\_\_\_\_\_\_**

The Consumer Credit Protection Act excludes from garnishment a floor level of disposable pay per workweek in an amount equal to 30 times the federal minimum hourly wage. As of July 24, 2009, the federal minimum wage is $7.25 per hour. Many states also have minimum wage laws. Some state laws provide greater employee protections. Assuming the current minimum wage, LINE 4 would be:

$217.50, if the employee is paid weekly

$435.00, if the employee is paid every other week

$471.25, if the employee is paid twice per month

$942.50, if the employee is paid monthly

**Subtract Line 4 from Line 1. 5. \_\_\_\_\_\_\_\_\_\_\_**

**Enter the sum of all other garnishments being currently withheld**

**from the employee’s disposable pay listed in Line 1. 6. \_\_\_\_\_\_\_\_\_\_\_**

If the employee is subject to multiple garnishments during a pay period, federal law may limit your ability to withhold, for that pay period, the full amount called for under the Order of Withholding from Earnings. For further information, please refer to the section in your Handbook on Multiple Withholding.

**Subtract Line 6 from Line 3. 7.\_\_\_\_\_\_\_\_\_\_\_**

**Subtract Line 6 from Line 5. 8.\_\_\_\_\_\_\_\_\_\_\_**

**Enter the lesser of Lines 2, 7 or 8.\*\* 9.\_\_\_\_\_\_\_\_\_\_\_**

Of the amounts calculated in Lines 2, 7 and 8, insert here whichever amount is lowest.

**Remit the amount entered on Line 9. Make checks payable to ECMC and remit to the address on the Order of Withholdings from Earnings.**

**NOTE: \*\*If this amount is zero or less, no remittance is required for this pay period.**