



## Student loans and wage garnishments under the CARES Act

April 8, 2020

The Coronavirus Aid, Relief, and Economic Security Act “CARES Act” (passed by Congress on March 27, 2020) provides garnishment relief to some federal student loan borrowers until September 30, 2020. The CARES Act provides “during the period in which the Secretary [of Education] suspends payments on a loan [through September 30, 2020] the Secretary shall suspend all involuntary collection related to the loan, including . . . wage garnishments authorized under section 488A of the High Education Act of 1965 (20 U.S.C. 1095a) or section 3720D of title 31, United States Code[.]” The CARES Act also requires the Secretary to provide notice to borrowers, no later than 15 days after March 27, 2020, of the actions taken to suspend garnishments.

Of course, the rules on loan forbearance and garnishment relief are not as simple as they may appear at first. The answers surrounding topic questions often depend on who holds or owns the loan. The Secretary’s requirement to suspend loan payments and garnishments only applies to loans “that are held by the Department of Education.” Thus, not all federal student loan garnishments are required to stop (*i.e.*, the act’s provisions do not apply to FFEL Program loans owned by commercial lenders or college-owned Perkins loans). Prior to discontinuing an employee’s garnishments due to a federal loan collection, employers should contact the collection agency and/or loan servicer to determine if the loan is held by the Department of Education. At this time, loan servicers and agencies holding federal student loans who are not the Department of Education appear to have discretion on whether or not to cease garnishments. Also, employees qualifying for federal loan garnishment relief should receive notice from the Department of Education. If an employee provides the employer with notice of garnishment suspension, the employer should still confirm with the collection agency and/or loan servicer. Unilaterally stopping garnishments without first inquiring if the Department of Education holds the loan could have legal consequences.

If the employer has garnished an employee's wages after the enactment of the CARES Act, the employer does not need to take any action as the Department of Education has committed to refunding a borrower's garnished wages received between March 13, 2020, and September 30, 2020. The Department of Education has also published [a helpful Q & A on student loan garnishments](#).

*Keep in mind that new guidance is being provided almost daily by the U.S. DOE, ODE and other entities on various topics affecting school districts. This guidance and advice is based on the information known as of this date.*

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