



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

In the Matter of

Docket No. 13-16-WG

R,

Administrative Wage
Garnishment Proceeding

Respondent.

TQE-10-221

DECISION

This proceeding is based upon an action by the U.S. Department of Education (Department) to garnish the wages of Regina (Respondent) for the purpose of recovering \$2731.67. \$1600.00 of this amount represents Teacher Quality Enhancement (TQE) Grants Program scholarship funds which were awarded to Respondent in 2001, and \$1131.67 was added for additional interest, penalties, and administrative fees. This appeal arose under the provisions of 31 U.S.C. § 3720D which has been implemented by the Department in 34 C.F.R. Part 34.

In accordance with the above-cited statute and regulations, the Department is authorized to collect money from a debtor's disposable income by means of an administrative wage garnishment for any financial obligation owed to the United States that arises under a program the Department administers. 34 C.F.R. §§ 34.1 and 2. This wage garnishment process must be initiated upon determining that a debt to the Department exists, it is delinquent, and by sending notice of the proposed garnishment to the debtor at least 30 days before the garnishment proceeding is initiated. 34 C.F.R. § 34.4. This notice must inform the debtor of the nature and amount of the debt, the intention to collect the debt through deductions until the principal and interest have been recovered, and an explanation of the debtor's rights. These rights include providing the debtor with the opportunity to inspect and copy the Department's records related to the debt, to enter into a repayment agreement, and the right to a hearing. 34 C.F.R. §§ 34.5 and 6. The Department has the burden of proving the existence and amount of the debt; and the debtor has the burden of proving by a preponderance of the credible evidence that the debt does not exist. 34 C.F.R. §§ 34.14(a) and (b).

The basis for the wage garnishment proceeding before me began on November 1, 2000, when Respondent signed a TQE Scholarship Agreement. In this agreement she acknowledged receipt of a scholarship to participate in a TQE program at University of Missouri – St. Louis,

and she was informed she would not have to repay the Department for this scholarship provided she fulfilled a prescribed service requirement. This service requirement obligated Respondent, within six months of graduating from the institution's teacher training program, to teach in a high-need school of a high-need school district for a period of time that is equivalent to the period of time for which Respondent received scholarship assistance. Respondent was informed that after completing this teaching obligation she must have the high-need school district provide the Department with confirmation that she had taught for the preceding period. Further, the agreement provided that if Respondent taught for a period less than the period of her service requirement, she was responsible for repayment of the percentage of the scholarship, plus interest, equal to the percentage of the period for which the service requirement was not fulfilled. Respondent used this scholarship payment for two semesters beginning with the 2001 winter semester. This agreement further obliges Respondent to provide the Department with a current home address, telephone number, current work address and telephone number, as well as other identifying information until such time as she either satisfies the service obligation or repays the scholarship.

The Department initiated this wage garnishment proceeding on May 5, 2010, when it determined Respondent had not satisfied the prescribed service requirement. On that date the TQE program section of the Department's Office of Postsecondary Education (OPE) sent Respondent a demand letter requesting repayment of the \$1600.00 in TQE scholarship loan funds. Apparently that demand letter and a number of subsequent billing notices sent to Respondent between July 2010 and January 2011 were returned to the Department because they were sent to Respondent's last known address, and she no longer resided there. It ran a skip trace in September 2011, and sent additional billing notices to a new address between October 18, 2011, and November 15, 2012. OPE received a voice message from Respondent on June 1, 2012 and returned the call on June 5, 2012 and left a voice message. There has been no further contact with Respondent since that date. The Department's Office of the Chief Financial Officer sent a due process letter to Respondent on September 7, 2012, informing her that if the debt were not paid within 10 days it would be referred to the U.S. Department of the Treasury for further collection action. On November 30, 2012, the Department referred the debt to the Department of the Treasury for an administrative wage garnishment.

On March 27, 2013, a representative of the Department of the Treasury sent Respondent a Notice of Intent to Initiate Administrative Wage Garnishment Proceedings. In addition to reiterating Respondent's right to make a full payment, enter a payment plan, inspect and copy records, she was also allowed a further opportunity to request a hearing. Respondent requested such a hearing on April 1, 2013, and in that request she explained she was unaware of the debt, where it originated and when it occurred.

Upon receipt of this request for a hearing, the Department of the Treasury returned the wage garnishment file to the Department of Education for further processing in accordance with Respondent's request. This case was received in this office on May 16, 2013, and I concluded I would conduct a paper hearing.

After considering all of the evidence, I find the Department of Education has met its

burden of proving Respondent owes \$2731.67 and that this debt is enforceable. It did this through the presentation of documentary evidence showing that Respondent obtained an academic scholarship through the TQE program. The scholarship agreement included a provision that repayment of the scholarship would be forgiven if, within a prescribed period of time, the Respondent taught in a high-need school in a high-need school district for an amount of time commensurate with the amount of the scholarship. Further, Respondent has the burden of obtaining a statement of employment from the employing school district to prove this obligation has been met. Respondent has not provided such a statement or statements. Accordingly, Respondent has not proved by a preponderance of the evidence that this debt does not exist. Respondent might argue she was not given appropriate notice of this debt; however, that argument is without merit. As noted above, in the absence of timely satisfying her obligation to teach in a high-need school or repaying this debt, Respondent had an obligation to provide the Department with a current address and phone number. She failed to comply with this obligation and, therefore, hampered the ability of the Department to notify her of her indebtedness in a timely manner.

In conclusion, I find that Respondent has not satisfied the contractual obligations of her TQE scholarship and owes a combined debt for a scholarship, interest, penalties and administrative fees to the Department of Education and the U.S. Treasury in the amount of \$2731.67. I further find that this amount is subject to involuntary wage garnishment.

ORDER

In accordance with the provisions of 31 U.S.C. § 3720D, Respondent's debt in the amount of \$2731.67 may be garnished.

/S/

Judge Richard F. O'Hair

Dated: May 20, 2013