



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

In the Matter of

EDWARD,

Respondent.

Docket No. 12-24-WG

Administrative Wage
Garnishment Proceeding

DECISION

This proceeding is based upon an action by the U.S. Department of Education (Department) to garnish the wages of Edward [REDACTED] (Respondent) for the purpose of recovering \$11,822.50. \$6,465.39 of this amount represents Teacher Quality Enhancement (TQE) Grants Program scholarship funds which were awarded to Respondent in 2001, 2002, and 2003, and \$5,357.11 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 August 25, 2001, when Respondent signed a Scholarship Agreement. In this agreement he acknowledged receipt of a scholarship to participate in a TQE program at Johns Hopkins University in Baltimore, Maryland, and he was informed he would not have to repay the Department for this scholarship provided he 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. After completing this teaching obligation Respondent was informed he must have the high-need school district provide the Department with confirmation that Respondent had taught for the preceding period. Further, the agreement provided that if Respondent taught for a period less than the period of his service requirement, he 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 obtained three additional scholarship payments – February 2, 2002, September 2, 2002, and February 3, 2003. With each additional payment, Respondent signed a scholarship agreement identical to the one he signed on August 25, 2001.

The Department initiated this wage garnishment proceeding on June 19, 2008, when it determined Respondent had not completed his academic program at Johns Hopkins University and, consequently, had not satisfied the prescribed service requirement. On that date the TQE program section of the Department's Office of Postsecondary Education sent Respondent a demand letter requesting repayment of the \$6,465.39 in TQE scholarship loan funds. Apparently that demand letter and a number of subsequent billing notices sent to Respondent between June 2008 and February 2009 were returned to the Department because it had an incorrect address. After running a skip trace in December 2009, it obtained a correct address and it sent additional billing notices to Respondent at this new address. The Department's September 21, 2010, letter to Respondent informed him the amount he owed the Department had increased to \$8,192.49 because of the addition of interest, penalties, and administrative costs. It also informed Respondent that if he did not make a payment in the amount demanded within 10 days, the Department would refer the debt to the U.S. Department of the Treasury for further collection action. The letter also advised Respondent he could request to review and copy relevant records, he could request an oral hearing, or he could propose a formal repayment agreement.

This debt collection action was forwarded to the Department of the Treasury for an administrative wage garnishment on July 27, 2011. On January 20, 2012, 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, he was also allowed a further opportunity to request a hearing. Respondent requested such a hearing on February 2, 2012, and in that request he provided the following explanation: "My loans with the Dept. of Ed. have been consolidated and my recent contract with the above states that I'm in satisfactory standing. I have enclosed copies. Thank you."

Enclosed with this appeal Respondent included a December 28, 2011, letter from Educational Credit Management Corporation (ECMC) affirming that an \$8,504.36 loan with

them had been paid as a result of Respondent's new William D. Ford Federal Consolidation Loan. Additionally, Respondent included a copy of a November 29, 2011, letter from the William D. Ford Direct Loan Program which listed any loans included in his Direct Consolidation Loan. The only loan listed was from ECMC.

Upon receipt of this request for a hearing, the Department of the Treasury returned the wage garnishment file to the Department for further processing in accordance with Respondent's request. This case was received in this office on March 30, 2012, and I concluded I would conduct a paper hearing.

After considering all of the evidence, I find the Department has met its burden of proving Respondent owes \$11,822.50 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. In fact, the file contains a statement that Respondent did not complete the academic program, thus he apparently was not qualified to engage in any teaching employment. Respondent's defense appears to be that all of his education loans have been consolidated and that he is current in his disposition of that obligation. That may be true; however, the federal funds he received for the TQE program were scholarship funds, not loan funds. Therefore, these funds could not, and were not, consolidated in the William D. Ford Consolidated Loan. Accordingly, Respondent has not proved by a preponderance of the evidence that this debt does not exist.

In conclusion, I find that Respondent has not satisfied the contractual obligations of his 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 \$11,822.50. 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 \$11,822.50 may be garnished.

Judge Richard F. O'Hair

Dated: April 4, 2012