

Chapter Series CC--Commissioned Corps Personnel Manual
Part 4--Regulations

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service

Chapter CC42--Pay and Allowance Administration
Subchapter CC42.7--Collections and Deductions
Personnel INSTRUCTION 1--Processing Garnishment Orders for Child Support
and/or Alimony

The material in this INSTRUCTION is reprinted from 5 CFR 581 which are the regulations published in compliance with Executive Order 12105, December 18, 1978, which authorized the U.S. Office of Personnel Management to promulgate regulations providing uniform procedures for the implementation by the executive branch of the garnishment provisions of 42 U.S.C. 659, 661-662; 15 U.S.C. 1673.

PART 581-PROCESSING GARNISH-
MENT ORDERS FOR CHILD
SUPPORT AND/OR ALIMONY

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AUTHORITY 42 U.S.C. 859, 661-662; 15

U.S.C. 1673; E.O. 12105.

SOURCE: 45 FR 85867. Dec. 30, 1980, unless otherwise noted.

Subpart A-Purpose and Definitions

§ 581-101 Purpose.

Section 659 of title 42 of the United States Code, as amended, provides that moneys, the entitlement to which is based upon remuneration for employment, due from, or payable by, the United States or the District of Columbia to any individual, shall be subject, as if the United States or the District of Columbia were a private person, to legal process brought for the enforcement of such individual's legal obligations to provide child support and/or make alimony payments. The purpose of this part is to implement the objectives of section 659 as it pertains to the executive branch of the Government of the United States.

§ 581.102 Definitions.

In this part: (a) "The executive branch of the Government of the United States" means all "governmental entities" as defined in this section, including therein the territories and possessions of the United States, the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, and the government of the District of Columbia.

(b) "Governmental entity" means each department, both civilian and military, agency, independent establishment, or instrumentality of the executive branch, including the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, any office, commission, bureau, or other administrative subdivision or creature of the executive branch, and the governments of the District of Columbia and of the territories and possessions of the United States.

(c) "Private person" means a person who does not have sovereign or other special immunity or privilege which

causes that person not to be subject to legal process.

(d) "Child support" means periodic payments of funds for the support and maintenance of a child or children, and, subject to and in accordance with State or local law, includes, but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children; the term also includes attorney's fees, interest, and court costs, if they are expressly made recoverable under a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction.

(e) "Alimony" means periodic payments of funds for the support and maintenance of a spouse or former spouse, and, subject to and in accordance with State or local law, includes, but is not limited to, separate maintenance, alimony pendente lite, maintenance, and spousal support. Alimony also includes attorney's fees, interest, and court costs, if they are expressly made recoverable under a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction. This term does not include any payment or transfer of property or its value by an individual to his/her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses. (See instead 5 U.S.C. 8345(j).)

(f) "Legal process" means any writ, order, summons, or other similar process in the nature of garnishment, which may include an attachment, writ of execution, or court-ordered wage assignment, which

(1) Is issued by:

(i) A court of competent jurisdiction, including Indian tribal courts, within any State, territory, or possession of the United States, or the District of Columbia;

(ii) A court of competent jurisdiction in any foreign country with which the United States has entered into an agreement that requires the United States to honor such process; or

(iii) An authorized official pursuant to an order of a court of competent jurisdiction or pursuant to state or local law, and

(2) Is directed to, and the purpose of which is to compel, a governmental entity to make a payment from moneys otherwise payable to an individual, to another party to satisfy a legal obligation of the individual to provide child support and/or make alimony payments.

(g) "Legal obligation" means an obligation to pay alimony and/or child support which is enforceable under appropriate State or local law.

(h) "Obligor" means an individual having a legal obligation to pay alimony and/or child support.

(1) "Remuneration for employment" means compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes, but is not limited to, those items set forth in 1581.103.

(J) "Party" means the person or persons to whom alimony and/or child support payments should be made, or, in the case of an agency established by State or local law, the agency which has been assigned, by law or by agreement, the right to receive such payment or payments.

[45 FR 85667, Dec. 30, 1980, as amended at 48 FR 26279, June 7, 1983]

§ 581.103 Moneys which are subject to garnishment.

(a) For the personal service of a civilian employee obligor:

(1) Saved pay;

(2) Retained pay;

(3) Night differentials;

(4) Sunday and holiday premium pay;

(5) Overtime pay;

(6) Standby pay;

(7) Environmental differentials;

(8) Hazardous duty pay;

(9) Tropical differentials;

(10) Recruitment incentives;

(11) Equalization allowance;

(12) Any payment in consideration of accrued leave;

(13) Severance pay;

(14) Sick pay;

(15) Physicians comparability allowances;

(16) Special pay for physicians and dentists;

(17) Amounts paid pursuant to a personal services contract where the contractor recipient performed the services and received the payments in the capacity as a Federal employee;

(18) Merit pay;

(19) Incentive pay;

(20) Cash awards;

(21) Agency and Presidential incentive awards (except where such award is for making a suggestion); and

(22) Senior Executive Service rank and performance awards.

(23) Moneys due on account of the services of a deceased employee obligor.

Including: (i) Overtime or premium pay;

(ii) Amounts due as refunds of pay deductions for United States savings bonds;

(iii) Payments for accumulated and current accrued annual or vacation leave as provided for in section 5581 of title 5 of the United States Code;

(iv) Retroactive pay as provided for in section 5344(a)(2) of title 5 of the United States Code; and

(v) Amounts of checks drawn for moneys due which were not delivered by the governmental entity to the employee obligor prior to the employee obligor's death or which were not negotiated and returned to the governmental entity

because of the death of the employee obligor, except those moneys due as set forth in §581.104(i)).

(b) For the personal service of an obligor in the uniformed services of the United States,

(1) Basic pay (including service academy cadet and midshipmen pay);

(2) Special pay (including enlistment and re-enlistment bonuses);

(3) Lump sum reserve bonus;

(4) Continuation pay for physicians and dentists;

(5) Special pay for physicians, dentists, optometrists, and veterinarians.

(6) Incentive pay.

(7) Variable incentive pay;

(8) Inactive duty training pay;

(9) Administrative duty pay;

(10) Academy official pay (other than personal money allowances).

(11) Any payments made in consideration of accrued leave (basic pay portion only);

(12) Readjustment pay;

(13) Disability retired pay;

(14) Severance pay (including disability severance pay); and

(15) Cash awards (NOAA Corps).

(c) For obligors generally: (1) Periodic benefits. Including a periodic benefit as defined in section 428(h)(3) of title 42 of the United States Code, title 11 of the Social Security Act, to include a benefit payable in a lump sum if it is commutation of, or a substitute for, periodic payments' or other payments to these individuals under the programs established by subchapter 11 of chapter 7 of title 42 of the United States Code (Social Security Act) and by chapter 9 of title 45 of the United States Code (Railroad Retirement Act) or any other system or fund established by the United States (as defined in section 662(a) of title 42 of the United States Code) which provides for the payment of:

(i) Pensions;

(ii) Retirement;

(iii) Retired/retainer pay;

(iv) Annuities;

(v) Refunds of retirement contributions where an application has been filed; and

(vi) Dependents' or survivors' benefits when payable to the obligor.

(2) Amounts received under any Federal program for compensation for work injuries; and

(3) Benefits received under the Longshoremen's and Harbor Workers' Compensation Act.

(4) Exceptions. Remuneration would not include: (i) Any payment as compensation for death. Including any lump sum death benefit under any Federal program;

(ii) Any payment under any Federal program established to provide "black lung" benefits;

(iii) Any payment by the Veterans Administration as pension; or

(iv) Any payments by the Veterans Administration as compensation for a service-connected disability or death, except any compensation paid by the Veterans Administration to a former member of the Armed Forces who is in receipt of retired or retainer pay. If such former member has waived a portion of his/her retired pay in order to receive such compensation. In this case, only that part of the Veterans Administration payment which is in lieu of the waived retired/retainer pay is subject to garnishment. Payments of disability compensation by the Veterans Administration to an individual whose entitlement to disability compensation is greater than his/her entitlement to retired pay, and who has waived all of his/her retired pay in favor of disability compensation, are not subject to garnishment or other attachment under this part.

[45 FR 85687, Dec. 30, 1980, as amended at 48 FR 26279, June 7, 1983]

§ 581-104 Moneys which are not subject to garnishment.

(a) Payments made pursuant to the provisions of the Federal Tort Claims Act, as amended, sections 1346(b) and 2671 et seq., of title 28 of the United States Code;

(b) Payments or portions of payments made by the Veterans Administration pursuant to sections 501-562 of title 38 of the United States Code, in which the entitlement of the payee is based on non-service-connected disability or death, age and need;

(c) Refunds and other payments made in connection with overpayments or erroneous payments of Income tax and other taxes levied under Title 26 of the United States Code;

(d) Grants;

(e) Fellowships;

(f) Veterans' educational assistance payments under sections 1651 et seq., of Title 38 of the United States Code;

(g) Contracts, except where the contractor recipient performed personal services and received payments in his/ her capacity as an employee of a governmental entity; and

(h) Reimbursement for expenses incurred by an individual in connection with his/her employment, or allowances In lieu thereof, and other payments and allowances, Including, but not limited to:

(1) In the case of civilian employees:

- (i) Uniform allowances;
- (ii) Travel and transportation expenses (including mileage allowances);
- (iii) Relocation expenses;
- (iv) Storage expenses;
- (v) Post differentials;
- (vi) Foreign areas allowances;

(vii) Education allowances for dependents;

(viii) Separate maintenance allowances;

(ix) Post allowances and supplementary post allowances,

(x) Home service transfer allowances:

(xi) Quarters allowances.

(xii) Cost-of-living allowances (COLA), when applicable to an employee in a foreign area or an employee stationed outside of the continental United States or in Alaska;

(xiii) Remote worksite allowance; and

(xiv) Per them allowances.

(2) In the case of members of the uniformed services: (i) Position pay (Navy only);

(ii) Basic allowance for quarters;

(iii) Basic allowance for subsistence'.

(iv) Station allowances;

(v) Armed Forces health professions scholarship stipends;

(vi) Public Health Service scholarship stipends;

(vii) Travel and transportation allowances:

(viii) Dislocation allowances:

(ix) Family separation allowances;

(x) ROTC subsistence allowance;

(xi) Allowance for recruiting expenses;

(xii) Education allowances for dependents;

(xiii) Clothing allowances for enlisted personnel;

(xiv) Uniform allowances; and

(xv) Personal money allowances for General and Flag officers, and for the Surgeon General of the United States.

(I) Moneys due a deceased employee obligor where the amounts are:

(1) Reimbursement for expenses Incurred by the deceased employee In connection with his/her employment, or allowances In lieu thereof, including (i) Per them instead of subsistence, mileage, and amounts due In reimbursement of travel expenses, including Incidental and miscellaneous expenses In connection therewith;

(ii) Allowances on change of official station;

(iii) Quarters allowances; and

(iv) Cost-of-living allowances (COLA), when applicable as a result of the deceased employee obligor's having been In a foreign area or stationed outside of the continental United States or In Alaska.

(2) Amounts due for payment of cash awards for employees' suggestions.

(3) In the case of volunteers serving under either the Domestic Volunteer Service Act or the Peace Corps Act, all allowances. Including, but not limited to, readjustment allowances, stipends, and reimbursements for out-of-pocket expenses.

[45 FR 85661, Dec. 30, 1980, as amended at 48 FR 26280, June 7, 1983]

§ 581.105 Exclusions.

In determining the amount of any "moneys due from or payable by, the United States" to any individual, there shall be excluded amounts which:

(a) Are owed by the individual to the United States;

(b) Are required by law to be deducted from the remuneration or other payment involved, including, but not limited to:

(1) Amounts withheld from benefits payable under title II of the Social Security Act where the withholding is required by law;

(2) Federal employment taxes;

(3) Amounts mandatorily withheld for the U.S. Soldiers' and Airmen's Home; and

(4) Fines and forfeitures ordered by a court-martial or by a commanding officer;

(c) Are properly withheld for Federal, State, or local Income tax purposes. If the withholding of the amounts is authorized or required by law and if amounts

withheld are not greater than would be the case if the individual claimed all dependents to which he/ she were entitled. The withholding of additional amounts pursuant to section 3402(f) of title 26 of the United States Code may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding;

(d) Are deducted as health Insurance premiums. Including, but not limited to, amounts deducted from civil service annuities for Medicare where such deductions are requested by the Health Care Financing Administra- tion;

(e) Are deducted as normal retirement contributions, not Including amounts deducted for supplementary coverage. Amounts withheld as Survivor Benefit Plan, or Retired Serviceman's Family Protection Plan payments are considered to be normal retirement contributions. Amounts voluntarily contributed toward additional civil service annuity benefits are considered to be supplementary; or

(f) Are deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Both Servicemen's Group Life Insurance and "Basic Life" Federal Employees' Group Life Insurance premiums are considered to be normal life insurance premiums; all optional Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment, such as National Service Life Insurance, are considered to be supplementary.

[45 FR 85667, Dec. 30, 1980, as amended at 48 FR 26280, June 7, 1983]

§ 1581.106 Future payments

Moneys Paid by a governmental entity which may be due and payable to an individual at some future date, shall not be considered due the individual unless and until

all of the conditions necessary for payment of the moneys to the individual - have been met. including, but not limited to, the following conditions which might apply:

- (a) Retirement,
- (b) Resignation from a position in the Federal service: or
- (c) Application for payment of moneys by the Individual.

Subpart B-Service of Process

§ 581.201 Agent to receive process

- (a) Appendix A to this part lists agents designated to accept service of process.
- (b) The head of each governmental entity shall submit to the Office of the General Counsel, Room 5H30, Office of Personnel Management, 1900 E Street, N.W. Washington, D.C. 20415, for publication in Appendix A to this part. the following Information concerning the agent(s) designated to accept service of process:
 - (1) Title;
 - (2) Mailing address;
 - (3) Telephone number, and
 - (4) Geographical area or region, If applicable.
- (c) United States Attorneys are not considered appropriate agents to accept service of process.

§ 581.202 Service of process.

- (a) A party using this part shall serve on the designated agent of the governmental entity which has moneys due and payable to the obligor, legal process which names the governmental entity as the garnishee.
- (b) Service of legal process brought for the enforcement of an obligation to provide child support and/or alimony shall be accomplished by certified or registered mail. return receipt requested,

or by personal service upon the appropriate agent designated in Appendix A to this part, or if no agent has been designated for the governmental entity having payment responsibility for the moneys involved, then upon the head of that governmental entity. The designated agent shall note the date and time of receipt on the legal process. The governmental entity shall make every reasonable effort to facilitate proper service of process on Its designated agent(s). If legal process is not directed to any particular official within the entity. or if It Is addressed to the wrong individual, the recipient shall, nonetheless. forward the legal process to the designated agent. However, valid service Is not accomplished until the legal process Is received In the office of the designated agent.

(c) Where It does not appear from the face of the process that It has been brought to enforce the legal obligation(s) defined in I 581.102(d) and/or (e), the process must be accompanied by a certified copy of the court order establishing such legal obligation(s).

(d) Where the State or local law provides for the issuance of legal process without a support order, such other documentation establishing that It was brought to enforce legal *obligation(s)* defined in I 581,102(d) and/or (e) must be submitted.

(e) In order for the party who caused the legal process to be served to receive the additional five (5) percent provided for In either I 581.402(a) or (b), It must appear on the face of the legal process that the process was brought for the enforcement of a support order for a period which is twelve (12) weeks in arrears, or a certified copy of the support order, or other evidence acceptable to the head of the governmental entity. establishing this fact, must be submitted.

[45 FR 85667. Dec. 30, 1980. as amended at 48 PR 26290. June 7. 1993]

§ 581.203 Information minimally required to accompany legal process

(a) Sufficient identifying Information must accompany the legal process in order to enable processing by the governmental entity named. Therefore, the following Identifying information about the obligor, if known, is requested:

- (1) Full name;
- (2) Date of birth;
- (3) Employment number, social security number, Veterans Administration claim number, or civil service retirement claim number,
- (4) Component of the governmental entity for which the obligor works, and the official duty station or worksite; and
- (5) Status of the obligor, e.g., employee, former employee, or *annuitant*.

(b) If the information submitted is not sufficient to Identify the obligor, the legal process shall be returned directly to the court, or other authority, with an explanation of the deficiency. However, prior to returning the legal process, if there is sufficient time, an attempt should be made to Inform the party who caused the legal process to be served, or the party's representative, that it will not be honored unless adequate identifying Information is supplied.

[45 FR 85667, Dec. 30, 1980, as amended at 48 FR 26280, June 7, 1983]

Subpart C-Compliance With Process

§ 581.301 Suspension of payment.

Upon proper service of legal process, together with all supplementary documents and Information as required by j 1581.202 and 581.203, the head of the governmental entity, or his/her designee, shall Identify the obligor to whom that governmental entity holds moneys due and payable as remuneration for employment and shall suspend, I.e.,

withhold, payment of such moneys for the amount necessary to permit compliance with the legal process In accordance with this part.

[48 PR 26280, June 7, 1983]

§ 581.302 Notification of obligor.

(a) As soon as possible, but not later than fifteen (15) calendar days after the date of valid service of legal process, the agent designated to accept legal process shall send to the obligor, at his or her duty station or last known home address, written notice:

(1) That such process has been served. Including &.copy of the legal process, and, if submitted, such other documents as may be required by 1581.202;

(2) Of the maximum garnishment limitations set forth In 1581.402, with a request that the obligor submit supPorting affidavits or other documentation necessary for determining the applicable percentage limitation;

(3) That by submitting supporting affidavits or other necessary documen. tation, the obligor consents to the disclosure of such information to the garnisher; and

(4) Of the percentage that will be deducted If he/she fails to submit the documentation necessary to enable the governmental entity to respond to the legal process within . the time limits set forth In 1581,303.

(b) The governmental entity may Provide the obligor with the following additional Information:

(1) Copies of any other documents submitted In support of the legal proc

(2) That the United States does not represent the interests of the obligor In the pending legal Proceedings;

(3) That the obligor may wish to consult legal counsel regarding de. fenses to the legal process that he or she may wish to assert; and

(4) That obligors In the uniformed services may avail themselves of the Protections provided in sections 520, 521, and 523 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S. Code App. 501 et seq.).

§ 581-303 Response to legal process or in. interrogatories.

(a) Whenever the designated agent Is validly served with legal process, the agent shall respond within thirty (30) calendar days, or within such longer period as may be prescribed by applicable State or local law, after the date valid service Is made. The agent shall also respond within this time period to interrogatories which accompany legal process.

(b) If State or local law authorizes the issuance of Interrogatories prior to or after the issuance of legal process, the agent shall respond to the inter- within thirty (30) calendar days after receipt. Provided, That the document(s) required by J 581.202(c) have been presented.

§ 581-304 Nonliability for disclosure.

(a) No Federal employee whose duties include responding to interroga. tories pursuant to I 581.303(b), shall be subject to any disciplinary action or civil or criminal liability or penalty for any disclosure of information made by him/her in connection with the carryIng out of any duties pertaining directly or indirectly to answering such interrogatories.

(b) However, a governmental entity would not be precluded from taking disciplinary action against an employee who consistently or purposely failed to provide correct Information requested by Interrogatories.

[45 FR. 85667, Dec. 30. 1980, as amended at 46 FR 26280. June 7. 1963]

§ 581.305 Honoring legal process.

(a) The governmental entity shall comply with legal process. except where the process cannot be complied wit because:

(1) It does not, on Its face, conform to the laws of the jurisdiction from which It was Issued;

(2) The legal process would require the withholding of funds not deemed moneys due from, or payable by, the United States as remuneration for employment;

(3) The legal process Is not brought to enforce legal obligation(s) for alimony and/or child support;

(4) It does not comply with the mandatory provisions of this part;

(5) An order of a court of competent Jurisdiction enjoining or suspending the operation of the legal process has been served on the governmental entity; or

(6) Where notice Is received that the obligor has appealed either the legal process or the underlying alimony and/or child support order, payment of moneys subject to the legal process shall be suspended until the governmental entity is ordered by the court, or other authority, to resume payments. However, no suspension action shall be taken where the applicable law of the jurisdiction wherein the appeal Is filed requires compliance with the legal process while an appeal is pending. Where the legal process has been Issued by a court In the District of Columbia, a motion to Quash shall be deemed equivalent to an appeal.

(b) Under the circumstances set forth in J 581.305(a), or where the governmental entity Is directed by the Justice Department not to comply with the legal process, the entity shall respond directly to the court, or other authority, setting forth its objections to compliance with the legal process. In addition, the governmental entity shall inform the garnishor, or the garnishor's

representative. that the legal process will not be honored. Thereafter, if litigation is initiated 'ed or threatened, the entity shall immediately refer the matter to the United States Attorney for the district from which the legal process issued. To ensure uniformity in the executive branch, governmental entities which have statutory authority to represent themselves In court shall coordinate their representation with the United States At torney.

(c) In the event that a governmental entity - Is served with more than one legal process for the same moneys due or payable to an Individual, then the moneys shall be available to satisfy such processes on a first-come. first served basis: Provided, That in no event will the total amount garnished for any pay or disbursement cycle exceed the applicable limitation set forth In 1581.402.

(d) Neither the United States, any disbursing officer, nor governmental entity shall be liable for any payment made from moneys due from, or payable by, the United States to any Individual pursuant to legal process regular on its face. if such payment is made in accordance with this part. However. where a governmental entity negligently fails to comply with legal process, the United States & shall be liable for the amount that the govern mental entity would have paid, If the legal process had been properly honored.

(e) Governmental entities affected by legal Process served under this part shall not be required to vary their normal pay or disbursement cycles to comply with the legal process. However, legal process, valid at the time of service, which Is received too late to be honored during the disbursement cycle in which it is received, shall be honored to the extent that the legal process may be satisfied during the next disbursement cycle within the limits set forth In 1581.402. The fact that the

legal process may have expired during this period would not relieve the governmental entity of its obligation to honor legal process which was valid at the time of service. If. In the next disbursement cycle. no further payment will be due from the entity to the obligor, the entity shall' follow the procedures set forth in § 581.306.

(f) If a governmental entity receives legal process which, on Its face, appears to conform to the laws of the Jurisdiction from which It was Issued. the entity shall not be required to as. certain whether the authority which issued the legal process had obtained personal Jurisdiction over the obligor.

[45 PR 85667, Dec. 30.1980, as amended at 48 FR 26280. June 7. 1983]

§ 581.306 Lack of moneys due from, or payable by, a governmental entity served with legal process.

(a) When legal process Is served on a governmental entity, and the individu. al identified led In the legal process as the obligor is found not to be entitled to moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the governmental entity. the entity shall follow the procedures set forth In the legal process for that contingency or. if no procedures are set forth therein. shall return the legal process to the court. or other authority from which It was Issued. and advise the court. or other authority, that no moneys. the entitlement to which Is based upon remuneration for employment, are due from. or payable by, the governmental entity to the named individual.

(b) Where it appears that remuneration for employment is only temporarily exhausted or otherwise unavailable, the court, or other authority. shall be fully advised as to why. and for how long, the remuneration will be unavailable. if that information is known by the governmental entity.

(c) In Instances where an obligor employee separates from his/her employment with a governmental entity which is presently honoring a continuing legal process, the entity shall inform the party who caused the legal process to be served, or the party's representative, and the court, or other authority, that the payments are being discontinued. In cases where the obligor has retired, or separated and requested a refund of retirement contributions, or transferred, or is receiving benefits under the Federal Employee's Compensation Act, and where this information is known by the entity, the entity shall provide the party with the designated agent for the new disbursing governmental entity.

[45 FR 85667, Dec. 30, 1980, as amended at 49 PR 2628 1, June 7, 1993]

Subpart D-Consumer Credit Protection Ad Restrictions

§ 581.401 Aggregate disposable earnings.

The "aggregate disposable earnings", when used in reference to the amounts due from, or Payable by, the United States or the District of Columbia which are garnishable under the Consumer Credit Protection Act for child support and/or alimony are the obligor's remuneration for employment less those amounts deducted in accordance with § 581.105.

§ 581.402 Maximum garnishment limitations.

Pursuant to section 1673(b)(2) (A) and (B) of title 15 of the United States Code (the Consumer Credit Protection Act, as amended), unless a lower maximum garnishment limitation is provided by applicable State or local law, the maximum part of the aggregate disposable earnings

subject to garnishment to enforce any support order(s) shall not exceed:

(a) Fifty (50) percent of the obligor's aggregate disposable earnings for any workweek, where the obligor asserts by affidavit, or by other acceptable evidence, that he/she is supporting a spouse and/or dependent child, other than the former spouse and/or child for whose support such order is issued, except that an additional five (5) percent will apply if it appears on the face of the legal process, or from other evidence submitted in accordance with I 581.202(d), that such earnings are to enforce a support order for a period which is twelve (12) weeks prior to that workweek, An obligor shall be considered to be supporting a spouse and/or dependent child only if the obligor provides over half of the spouse's and/or dependent child's support.

(b) Sixty (60) percent of the obligor's aggregate disposable earnings for any workweek, where the obligor fails to assert by affidavit or establishes by other acceptable evidence, that he/she is supporting a spouse and/or dependent child, other than a former spouse and/or child with respect to whose support such order is issued, except that an additional five (5) percent will apply if it appears on the face of the legal process, or from other evidence submitted in accordance with I 581.202(d), that such earnings are to enforce a support order for a period which is twelve (12) weeks prior to that workweek.

(c) Where, under I 581.302(a)(2), an obligor submits evidence that he/she is supporting a second spouse and/or child, copies of the evidence shall be sent by the governmental entity to the garnishor, or the garnishor's representative, as well as to the court, or other authority, together with notification that the obligor's support claim will be honored. If the garnishor disagrees with the obligor's support claim, the garnishor should

Immediately refer the matter to the court. or other authority. for resolution.

[45 PR 85667. Dec. 30, 1980, as amended at 48 FR 36281. June 7.1983]

Subpart E-Implementation by Governmental Entities

§ 581.501 Rules, regulations, and directives by governmental entities.

Appropriate officials of all governmental entities shall. to the extent necessary, issue implementing rules, regulations. and/or directives that are consistent with this part.

APPENDIX A To PART 581 -- LIST OF AGENTS DESIGNATED To ACCEPT LEGAL PROCESS

(This appendix lists the agents designated to accept legal process for the executive branch of the United States, the United States Postal Service, the Postal Rate Commission. the District of Columbia, American Samoa, Guam, the Virgin Islands, and the Smithsonian Institution).

I. Departments

DEPARTMENT Of HEALTH AND HUMAN SERVICES

1. For the garnishment of the remuneration of employees of the DEPARTMENT of Health and Human Services: Garnishment Agent, Office of General Counsel. Room 5362-North Building., 330 Independence Ave., S.W., Washington. D.C. 20201: (202) 472-3109

2. For the garnishment of benefits under Title II of the Social Security Act. legal process may be served on the office manager at any Social Security District or

Branch Office. The addresses and telephone numbers of Social Security District and Branch Offices may be found in the local telephone directory.