

Office of Personnel Management

§ 581.102

services contract or other direct contract.

(b) For a voluntary separation incentive payment made under statutory authority other than subpart A of this part, the agency should review the authorizing statute and, if a waiver is permitted, submit a request as specified by that statute.

PART 581—PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Subpart A—Purpose and Definitions

Sec.

- 581.101 Purpose.
- 581.102 Definitions.
- 581.103 Moneys which are subject to garnishment.
- 581.104 Moneys which are not subject to garnishment.
- 581.105 Exclusions.
- 581.106 Future payments.

Subpart B—Service of Process

- 581.201 Agent to receive process.
- 581.202 Service of process.
- 581.203 Information minimally required to accompany legal process.

Subpart C—Compliance With Process

- 581.301 Suspension of payment.
- 581.302 Notification of obligor.
- 581.303 Response to legal process or interrogatories.
- 581.304 Nonliability for disclosure.
- 581.305 Honoring legal process.
- 581.306 Lack of moneys due from, or payable by, a governmental entity served with legal process.
- 581.307 Compliance with legal process requiring the payment of attorney fees, interest, and/or court costs.

Subpart D—Consumer Credit Protection Act Restrictions

- 581.401 Aggregate disposable earnings.
- 581.402 Maximum garnishment limitations.

Subpart E—Implementation by Governmental Entities

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

APPENDIX A TO PART 581—LIST OF AGENTS DESIGNATED TO ACCEPT LEGAL PROCESS

APPENDIX B TO PART 581—LIST OF AGENTS DESIGNATED TO FACILITATE THE SERVICE OF LEGAL PROCESS ON FEDERAL EMPLOYEES

AUTHORITY: 42 U.S.C. 659; 15 U.S.C. 1673; E.O. 12105 (43 FR 59465 and 3 CFR 262) (1979).

SOURCE: 45 FR 85667, Dec. 30, 1980, unless otherwise noted.

Subpart A—Purpose and Definitions

§ 581.101 Purpose.

(a) Notwithstanding any other provision of law (including section 407 of title 42, United States Code, section 5301 of title 38, United States Code, and sections 8346 and 8470 of title 5, United States Code), section 659 of title 42, 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, in like manner and to the same extent as if the United States or the District of Columbia were a private person:

(1) To legal process for the enforcement of an obligor's legal obligations to provide child support, alimony, or both, resulting from an action brought by an individual obligee; and

(2) To withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 666 of title 42, United States Code, and to regulations of the Secretary of Health and Human Services under such subsections, and to any other legal process brought by a State agency subject to regulations of the Secretary of Health and Human Services that is administering a program under an approved State plan to enforce the legal obligations of obligors to provide child support and alimony.

(b) Section 659 of title 42, United States Code, as amended, provides further that each governmental entity shall be subject to the same requirements as would apply if the governmental entity were a private person, except as set forth in this part.

[63 FR 14757, Mar. 26, 1998]

§ 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 be subject to legal process.

(d) *Child support* means the amounts required to be paid for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

(e) *Alimony* means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction. *Alimony* does not include child support or any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with

any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(f) *Legal process* means any writ, order, summons, notice to withhold income pursuant to subsection (a)(1) or (b) of section 666 of title 42, United States Code, or other similar process in the nature of garnishment, which may include an attachment, writ of execution, court ordered wage assignment, or in the case where a child support order is submitted by a child support agency using the standard Order/Notice to withhold income for child support as required by section 324 of Pub. L. 104-193 and 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; or

(iv) A State agency authorized to issue income withholding notices pursuant to State or local law or pursuant to the requirements of section 666(b) to title 42 of the United States Code; 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, alimony or both.

(g) *Legal obligation* means an obligation to pay alimony and/or child support that is enforceable under appropriate State or local law. A legal obligation may include current as well as past due alimony and/or child support debts depending on the law in the jurisdiction from which the legal process was issued.

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

(i) *Remuneration for employment* means compensation paid or payable

Office of Personnel Management

§ 581.103

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 § 581.103.

(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.

(k) *Individual obligee* means any individual or entity other than a State agency authorized to issue income withholding notices pursuant to the requirements of section 666(b) to title 42 of the United States Code.

[45 FR 85667, Dec. 30, 1980, as amended at 48 FR 26279, June 7, 1983; 55 FR 1355, Jan. 16, 1990; 63 FR 14757, Mar. 26, 1998]

§ 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 duty pay, administratively uncontrollable overtime pay, and availability pay;
- (7) Environmental differentials;
- (8) Hazardous duty pay;
- (9) Tropical differentials;
- (10) Recruitment incentives, recruitment and relocation bonuses and retention allowances;
- (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, including performance-based cash awards;

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

(22) Senior Executive Service rank and performance awards;

(23) Moneys due for 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(b)(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 that are listed in § 581.104(i);

(24) Locality-based comparability payments or continued rate adjustments;

- (25) Staffing differentials;
- (26) Supervisory differentials;
- (27) Special pay adjustments for law enforcement officers in selected cities;
- (28) Advances in pay; and
- (29) Voluntary separation incentive payments.

(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);