

PERSONNEL

All employees are expected to discharge their financial obligations promptly so that creditors will not have to ask for the school division's assistance in collecting amounts owed to them.

Whenever the school division is served with a Writ of Garnishment or Attachment, a Notice of Levy by the Internal Revenue Service or other taxing authority, or any other similar order requiring payment of a portion of an employee's compensation to someone other than the employee, the matter will be referred to the payroll clerk for appropriate action. Failure to act promptly may render the school division legally liable.

In the event that garnishment or similar proceedings are instituted against an employee, the school division will deduct the required amount from the employee's paycheck. The amount deducted from the employee's disposable earnings will not exceed that permitted by law or the Virginia Department of Labor and Industry.

Compliance with writs of garnishments and similar orders imposes an administrative and financial burden on the school division. In addition, the failure of an employee to meet his or her financial obligations does not reflect favorably on the school division and frequently has an adverse affect on the employee's job performance.

Whenever a supervisor has reason to believe that an employee is experiencing financial difficulties, the supervisor shall investigate the situation and, if circumstances require, will refer the employee to the central office for appropriate counseling.

No employee will be terminated by reason of the fact that his or her earnings have been subject to garnishment for one indebtedness. However, such persons may be liable for disciplinary action. Garnishments for more than one indebtedness may result in termination, depending upon the circumstances of the case, the employee's record of performance and the recommendation of his or her supervisor.

Legal Reference:

Code of Va., § 34-29. Maximum portion of disposable income subject to garnishment.--
"(a) Except as provided in subsections (b) and (b1), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment may not exceed the lesser of the following amounts:"

- 1) Twenty-five percent of his disposable earnings for that week, or
- 2) The amount by which his disposable earnings for that week exceed thirty times the federal minimum hourly wage prescribed by § 206 (a) (1) of Title 29 of the United States Code in effect at the time earnings are payable.

In the case of earnings for any pay period other than a week, the State Commissioner of Labor and Industry shall by regulation prescribe a multiple of the federal minimum

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hourly wage equivalent in effect to that set forth in this section.

(b) The restrictions of subsection (a) do not apply in the case of

(1) Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by state law, which affords substantial due process, and which is subject to judicial review.

(2) Any order of any court of bankruptcy under Chapter XIII of the Bankruptcy Act.

(3) Any debt due for any state or federal tax.

(b1) The minimum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) Sixty percent of such individual's disposable earnings for that week; or

(2) If such individual is supporting a spouse or dependent child other than the spouse or child with respect to whose support such order was issued, fifty percent of such individual's disposable earnings for that week.

The fifty percent specified in subdivision (b1) (2) shall be fifty-five percent and the sixty percent specified in subdivision (b1) (1) shall be sixty-five percent if and to the extent that such earnings are subject to garnishment to enforce an order for support for a period which is more than twelve weeks prior to the beginning of such workweek.

(c) No court of the Commonwealth and no state agency or officer may make, execute, or enforce any order or process in violation of this section.

The exemptions allowed herein shall be granted to any person so entitled without any further proceedings.

(d) For the purposes of this section

(1) The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, whether paid directly to the individual or deposited with another entity or person on behalf of and traceable to the individual, and includes periodic payments pursuant to a pension or retirement program; provided, that in no event shall funds that have been deposited by or for an individual for more than thirty days be considered earnings,

(2) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be

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withheld, and

(3) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

(e) Every assignment, sale, transfer, pledge, or mortgage of the wages or salary of an individual which is exempted by this section, to the extent of the exemption provided by this section, shall be void and unenforceable by any process of law.

(f) No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness.

(g) A depository wherein earnings have been deposited on behalf of and traceable to an individual shall not be required to determine the portion of such earnings which are subject to garnishment." (1992)

Adopted by School Board: September 18, 1984