

2022 Employer Symposium Report



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PURPOSE

The Employer Symposium brought experts from the child support and employer communities together to discuss ways to improve communication, cooperation and processes between the child support program and employers.

BACKGROUND

The federal Office of Child Support Enforcement (OCSE) hosted the first Employer Symposium in August [2005](#). Subsequent symposiums in [2011](#), [2014](#), and [2016](#) were held in conjunction with child support conferences such as the National Child Support Enforcement Association (NCSEA). In 2018, the National Council of Child Support Directors (NCCSD) decided to host a symposium in [2019](#) immediately following their annual conference to increase child support director participation. The symposiums are an opportunity for the employer and child support communities to identify challenges and pain points and discuss solutions. Since the 2019 symposium achieved the goal of increasing director participation, NCCSD decided to host a symposium in 2022 immediately following their annual conference.

FORMAT

NCCSD hosted the 2022 Employer Symposium in Boston, Massachusetts at the Suffolk University Law School. The symposium was one and a half days, beginning on July 13 and concluded on July 14th.

Michele Cristello, NCCSD President and Jim Fleming, North Dakota Director welcomed attendees to the symposium and shared a video message from Tangler Gray, Commissioner of the Office of Child Support Enforcement.



PARTICIPANTS

82 individuals attended the symposium including state child support directors and staff from 25 states and territories, 16 representatives from the employer community, 8 vendors, and 7 OCSE staff. Some large employers and payroll providers such as the Defense Finance Accounting Service (DFAS), Toyota, LL Bean, Ceridian, and ADP attended along with a representative from the American Payroll Association (APA). The participant list is [Appendix A](#).

OPENING PRESENTATION

Alice Jacobsohn, Director of Government Relations for APA, presented Jim Fleming, North Dakota Director, with the 2022 Government Partner Award for engagement with payroll professionals as key stakeholders and highlighted his numerous accomplishments which include:

- Formed the NCCSD Child Support Employer Collaboration Workgroup which brought payroll professionals, state directors, and the Office of Child Support Enforcement (OCSE) together to discuss and resolve critical issues.
- Worked with APA to develop the Model Legislation on Managing Lump-Sum Payments for Child Support (Model Act) for reporting and processing lump sum payments.
- Supported development of Communication Center on OCSE's Child Support Portal.
- Distributed APA's letter of support for OCSE's standardized National medical Support Notice to state child support directors.
- Expanded the workgroup in 2022 and created a national employer database subcommittee to explore options for storing and maintaining employer information for child support agencies to use for case management.



ACCOMPLISHMENTS FROM PRIOR SYMPOSIUMS

Jim Fleming, former president of NCCSD, established the Employer Collaboration Workgroup following the 2019 symposium. Many of the participants from the 2017-2019 NCCSD workgroup to review the lump sum reporting and withholding process joined the collaboration workgroup. Several recommendations identified at prior symposiums to improve processes and communication have been accomplished including the items below.

Since the NCCSD Employer collaboration Workgroup has successfully demonstrated the ability to make progress in improving the partnership between child support agencies and employers, incoming NCCSD president Kate Cooper Richardson agreed to continue hosting the workgroup during her tenure.

Topic	Accomplishment
Verification of Employment	Developed a standard verification of employment response that all 54 states and territories agreed to accept from employers. Standardization supports automation which may reduce the manual response effort for employers.
Lump Sum Reporting	Drafted the Model Act for states to adopt concerning lump sum reporting and withholding.
Electronic National Medical Support Notice (e-NMSN)	Followed the e-IWO model to automate the process for states and employers/plan administrators to exchange NMSNs.
Income Withholding	Developed recommendations for amending the Income Withholding for Support Order/Notice (IWO) instructions to expand the reasons an employer may reject non-conforming IWOs issued by entities other than child support agencies—non-IV-D IWOs.
OCSE Child Support Portal (Portal)	Enhanced the Portal to provide a match/no match response to an employer reporting an individual who is eligible to receive a lump sum payment. Employers may release lump sum payouts to employees with a no match response. Match responses include contact information for the state(s) where the employee owes child support.

SYMPOSIUM TOPICS

Participants discussed the following topics included in the symposium agenda ([Appendix B](#)).

LUMP SUM REPORTING AND WITHHOLDING

BACKGROUND

- Several states require employers to provide notification before paying a lump sum to an employee who owes child support.
- Employers identified challenges with the notification and withholding processes.
- NCCSD established workgroups to address challenges and concerns.
 - Developed Model Legislation on Managing Lump-Sum Payments for Child Support (Model Act).
 - Drafted recommendations to improve processes.

DISCUSSION

- Reviewed results from the 2019 symposium survey on state reporting and withholding requirements and processes. ([Appendix C](#))
- Advised that OCSE is working with SSA to pilot lump sum reporting on OCSE's Child Support Portal to notify child support agencies about lump sum payments to beneficiaries who owe child support. SSA and child support agencies could use Communication Center on the Portal to exchange messages and documents about withholding from the lump sum payment.
- Addressed employer's challenges associated with lump sum reporting which include delayed or no responses, different state reporting requirements and hold periods.
- Reviewed the Model Act and identified the provisions which address employer challenges. ([See Page 7: Employer Challenges and Model Act Reference](#) and [Appendix D](#))

EMPLOYER CHALLENGES AND MODEL ACT REFERENCE

Hold Period and No Response Timeframe

- States have varying hold periods and some direct employer to withhold past the payout date.
- States may have no response requirement timeframes or do not respond.
- Employer required to follow up repeatedly with non-responsive states.

SECTION 5. RETENTION OF PORTION OF LUMP SUM

- Contains “notwithstanding any other provision of state law”.
- Allows income payer to release 50% of the lump sum to the employee.
- Establishes timeframe for employer to release remainder of the lump sum payment to the employee. If the child support agency has not responded within the timeframe, the employer may release the remaining 50% to the employee.

SECTION 6. RESPONSE TO LUMP-SUM NOTICE

- Requires child support agencies to respond to the notification of a lump sum payment within a specified timeframe (Model Act states 14 calendar days after receiving lump sum report).
- This section, in conjunction with Section 5, allows an income payer to release the remainder of the lump sum payment to the employee if the child support agency has not responded within the specified timeframe.

Reporting Threshold

- States have different reporting thresholds.
- Employer may not know the lump sum payment at the time of reporting.
- IWO received, but lump sum payment was less than reporting threshold.

SECTION 3. DEFINITIONS

- “Disposable Earnings” means that part of the earnings of any obligor remaining after the deduction from those earnings of any amounts required by law to be withheld.
- “Earnings” means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise.
- “Lump-Sum Payment” includes, but is not limited to, discretionary and non-discretionary bonuses, commissions, performance bonuses, merit increases, safety awards, signing bonuses, moving and relocation incentive payments, holiday pay, termination pay, and severance pay. Lump-sum payment also includes workers’ compensation, insurance settlements, and personal injury settlements paid as replacement for wages owed. Lump-sum payment means income other than a periodic recurring payment of earnings on regular paydays and does not include reimbursement for expenses.

SECTION 5. RETENTION OF PORTION OF LUMP SUM

Allows income payer to release 50% of the lump sum to the employee.

EMPLOYER CHALLENGES AND MODEL ACT REFERENCE

SECTION 4. REPORTING OF LUMP SUMS

- Includes a provision that an income payer may report a lump sum payment less than the specified threshold amount.
- Employee must owe past-due support

SECTION 8. IMMUNITY FROM LIABILITY

- This section provides immunity from liability for an income payer who reports, withholds, or remits lump sum payments.

Notice to Withhold Exceeds CCPA Limits

- Conflict between state guidance and CCPA withholding limits

SECTION 6. RESPONSE TO LUMP-SUM NOTICE

- Requires child support agencies to respond to the notification of a lump sum payment within a specified timeframe (Model Act states 14 calendar days after receiving lump sum report) and to provide either:
 - A written release indicating that some, or all, of the portion of the lump sum payment retained by the income payer may be disbursed to the obligor or
- An amended or supplemental income withholding order or other written demand specifying the amount of the lump-sum payment to be remitted to the child support agency on behalf of the obligor.

EMPLOYER CHALLENGES AND MODEL ACT REFERENCE

Notice/Response from State to Withhold

<ul style="list-style-type: none"> • Notices to withhold vary across states • Employer requested individual notices/orders from child support agencies but received consolidated spreadsheet • e-IWO employers not receiving withholding request through the e-IWO process 	<p>SECTION 6. RESPONSE TO LUMP-SUM NOTICE</p> <ul style="list-style-type: none"> • Requires child support agencies to respond to the notification of a lump sum payment within a specified timeframe (Model Act states 14 calendar days after receiving lump sum report) and to provide either: <ul style="list-style-type: none"> – A written release indicating that some, or all, of the portion of the lump sum payment retained by the income payer may be disbursed to the obligor or <p>An amended or supplemental income withholding order or other written demand specifying the amount of the lump-sum payment to be remitted to the child support agency on behalf of the obligor</p>
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ACTION ITEMS

Action Items	Responsible Party(s)
<ul style="list-style-type: none"> • Continue to explore strategies for states to adopt the Model Act. • Create a fact sheet and optimal process model/flow to help states move forward with introducing legislation to adopt the Model Act. 	NCCSD Employer Collaboration Workgroup
<ul style="list-style-type: none"> • Encourage states to register for Communication Center since it is a secure environment for exchanging messages and documents about withholding from lump sums payments. 	States, OCSE, and Employer Community

INCOME WITHHOLDING ORDERS AND NON-IV-D ORDERS

BACKGROUND

- Some payroll software/systems can only store two IWO identifiers.
- Employers without servers would like to participate in e-IWO.
- Employers expressed challenges with processing non-IV-D IWOs.

DISCUSSION

- Consider offering an e-IWO online option for employers to download e-IWOs from OCSE's Portal.
 - Limited state impact
 - Include FEINs for employers opting to participate in e-IWO online in e-IWO push file to states
 - States create e-IWO record for those employers
 - OCSE sends acknowledgments to states
 - Develop process for addressing IWOs not picked up by employers within specified timeframe
 - Identify best practices and lessons learned in states that currently offer service to employers
- During the next IWO form renewal in 2023, update the IWO instructions to expand the reasons an employer may reject a non-IV-D IWO.
- Child support agencies should work with their counties and courts to ensure all non-IV-D orders are reported to the State Case Registry.
- Potential for states to use incentive funds to issue non-IV-D IWOs.

ACTION ITEMS

Action Items – Income Withholding	Responsible Party(s)
<ul style="list-style-type: none"> • Explore creating an e-IWO online process for employers without servers. • Determine how to address situations when employers do not retrieve IWOs within specified timeframe. 	OCSE
Action Items – Non-IV-D Orders	Responsible Party(s)
<ul style="list-style-type: none"> • Create a Fact Sheet for employers on the child support program and identify the differences in processing IV-D and non-IV-D IWOs. 	NCCSD Employer Collaboration Workgroup
<ul style="list-style-type: none"> • Consider using an 'Opt Out' vs 'Opt In' approach for IV-D cases. • Explore eliminating the requirement for an application for IV-D services. • Recommend approach for IV-D agency to issue all non-IV-D IWOs. • Explore option for states to request a waiver from OCSE to use matching funds to issue non-IV-D orders. 	NCCSD/States

NATIONAL EMPLOYER DATABASE

BACKGROUND

- Child support agencies need reliable and current employer contact information.
- Nearly all child support agencies are managing an employer database/table that contain many of the same employers.
- Explore options to improve the process for managing employer data across states.

DISCUSSION

- Reviewed the as-is employer data flow to child support agencies. ([Appendix E](#))
- Identified problems a national employer database may solve for child support agencies:
 - Incorrect IWO and other addresses in state systems which prevents child support documents from reaching the right location
 - No employer contact information such as a point of contact name, phone number and email address which delays communication
 - 54 states and territories are maintaining some level of an employer table/database/repository and having a national employer database would reduce the burden on states to maintain employer data
 - Lack of data quality, accuracy, consistency (e.g., different record layouts for reporting, different definitions for same data)
 - Duplicate employer records in a database
 - Inability to link employers to service providers or employers linked to each other (e.g., parent/child, employer/subsidiary)
- Reviewed 2019 survey results on state new hire reporting requirements. ([Appendix F](#))
- Reviewed 2019 survey results on employer's address capacity and linking FEINs. ([Appendix G](#))
- Assumed states would be responsible for ensuring current and accurate information about employers only doing business in their state.
- Suggested state technical staff conduct a 5-day sprint to develop a national employer database prototype.

ACTION ITEMS

Action Items	Responsible Party(s)
<ul style="list-style-type: none"> • Contact states to set up a meeting to determine interest in moving forward with a proof-of-concept model for a National Employer Database and identify next steps. • Identify the number of states interested moving forward with pursuing in a national database. • Develop a proof of concept and identify development stages. • Determine if a state consortium should develop and host the database. • Determine how to incorporate OCSE housed data (NDNH, e-IWO, Portal) into a database managed outside of OCSE. • Identify states with a good employer database and capture lessons learned and best practices. • Determine database name (NED?, "NED talks"!)) 	NCCSD Employer Collaboration Workgroup/NCCSD/Michigan

INDEPENDENT CONTRACTORS

BACKGROUND

- Two key questions need to be answered – who to report and when to report.
- Legislation is needed to assist with reporting compliance.

DISCUSSION

- Reviewed the 2019 survey results on states withholding limits for independent contractors and discussed challenges with determining the amount to withhold. ([Appendix H](#))
- Discussed states challenges with identifying independent contractors and when and how to report.
- How to monitor reporting compliance.
- Value of adding an independent contractor (IC) indicator on the NDNH to identify individuals who are ICs instead of employees. This information would only be available if state directory of new hires send it to the NDNH.

ACTION ITEMS

Action Items	Responsible Party(s)
<ul style="list-style-type: none"> • Develop model legislation for IC reporting following the lump sum Model Act process. • Create a matrix containing states with IC reporting legislation, including all IC reporting, and withholding provisions. • Define IC as it relates to the child support program and include the difference/distinction between an IC and employee. • Develop recommendation regarding IC reporting compliance monitoring. 	NCCSD Employer Collaboration Workgroup
<ul style="list-style-type: none"> • Develop indicator for an IC on the NDNH. 	OCSE

OPPORTUNITIES TO IMPROVE COMMUNICATION AND EXCHANGE INFORMATION AND VERIFICATION OF EMPLOYMENT

BACKGROUND

- Employers and states use Communication Center to send messages and exchange documents containing sensitive information.
- Communication Center provides faster and more efficient two-way communication.
 - Over 2,000 employers and 27 states are active on Communication Center
 - **Note:** As of the publication of the report (August 2022) there are over 2,300 employers and 30 states participating in Communication Center.
- Employers are concerned about the volume of verification of employment (VOE) requests.

DISCUSSION

- Viewed results from the 2019 survey on employer portals and activities. ([Appendix I](#))
- Reiterated the need for states to send VOEs to establish or modify child support orders.
- Some states send a VOE rather than sending an IWO because
 - the source of employment information may not be as reliable as new hire or quarterly wage reporting
 - the system may be programmed to generate a VOE based on established criteria
- Automating VOE requests and responses would increase efficiency and supports the recent shift to virtual work environments.
- OCSE should explore developing an automated process for states and employers to exchange VOE information, using the e-IWO model.

ACTION ITEMS

Action Items	Responsible Party(s)
Explore creating an e-IWO like process for VOEs using the standard VOE response template.	OCSE

NEW WAYS TO PAY EMPLOYEES

BACKGROUND

- Employers now offer more frequent pay frequencies such as pay-on-demand and early access to wages to recruit employees.

DISCUSSION

- Participants shared experience with employees receiving 'pay-on-demand' /early access to their wages.
 - New Zealand has implemented a process to collect child support from employees who receive early access to their wages.
- Identified areas that may need to be addressed in the future such as employee pay date changes, employer collected fees for processing IWOs, state disbursement units receiving more frequent payments, and the administrative costs associated with the new pay frequencies.

ACTION ITEMS

Action Items	Responsible Party(s)
None Identified	

APPENDIX A: PARTICIPANTS

Last Name	First Name	Organization
Alvarez del Valle	Alba	Puerto Rico
Archuletta	Janine	Colorado
Arneson	Kristie	Wyoming
Arocha-De Leon	Christa	Texas
Baheti	Shubham	The Broad Institute, Inc.
Bermudez	Rick	California
Brown	Michael	Ceridian
Caraballo Frontanez	Lennis	Puerto Rico
Carl	Hal	Conduent
Claycomb	Kyle	Iowa
Conde	Christina	Zekelman
Cooper Richardson	Kate	Oregon
Cox Breen	Kathlyn	Massachusetts
Cristello	Michele	Massachusetts
Dayq	Jill	Paychex, Inc
Dexter	Chad	FAST
DiBiase	Frank	Rhode Island
Donnelly	Verna	North Carolina
Duronslet	Alison	ADP
Feliciano Padilla	Wanda	Puerto Rico
Fleming	Jim	North Dakota
Flores	Corri	APA
Fornier	Judy	New Jersey
French	Erika	Stellarware
French	George	Stellarware
Frisch	Erin	Michigan
Gorham	Julie	Massachusetts
Grigsby	Sherri	OCSE
Hagerty	Dee	Oracle

Last Name	First Name	Organization
Heller	Sherri	N&R Publications
Hood	Michael	Massachusetts
Hurst	John	Georgia
Jacobsohn	Alice	APA
Johnson	Troy	District of Columbia
Jones	Chris	Massachusetts
Kilgore	David	California
Kondapolu	Venkat	OCSE
Lacina	Barbara	Virginia
Large	Robyn	OCSE
Linden	Kate	Noble
Liu	Jessica	Nemo
Liu	Winifred	Nemo
Longo	Loretta	DFAS
Main	Karen	Connecticut
Main	Margo	Zekelman
Majeski	Michael	DFAS
Marek	Katherine	Wisconsin
Marquardt	Dawn	Oregon
Martinez	Nicole	Puerto Rico
Miller	Hope	Stellarware
Montagne	Anne	Paychex, Inc
Morris-Williams	Barbara	Arkansas
Morton	Nycole	District of Columbia
Nelson	Mary	APHSA
Nordstrom	Deborah	Cambridge Public Schools
O'Donnell	Patricia	Young Williams
O'Neill	Dolores	Massachusetts
Owen	James	Siemens
Perez	Andrew	Guam
Phillips	Paula	Arkansas

Last Name	First Name	Organization
Potts	Diane	CGI
Proctor	Sondra	Michigan
Redmond	Sharon	Washington
Reeder	Lane	Quadiant
Reyes	Gloria	Broad Institute
Rhodes	Aggie	District of Columbia
Roberts	Chuk	Virginia
Santilli	Sharon	Stellarware
Sastre Fuente	Terilyn	Puerto Rico
Scharping	Jackie	SMI
Sherry	Jennifer	New York
Shook	Chad	Mississippi
Simpkins	Jeremy	Massachusetts
Stack	Eileen	New York
Steed	Zach	Conduent
Sullo	Leah	Massachusetts
Thompson	Lynnetta	OCSE
Ticer	Sophia	District of Columbia
Tribble	Bryan	Illinois
Vaughn	Ghi	Strategic Accounting and Tax Service
Verrill	Christena	L.L. Bean
Vigil	Melanie	New Mexico
Walker	Jamie	Actium
Walker	Tameka	OCSE
Watts	Darryl	OCSE
West	Carla	North Carolina
Whitehead	Adam	FAST
Williams	Laura	Rogers Corporation
Youngman	Barbara	Toyota Motor North America
Youngman	Leigh	Toyota Motor North America

APPENDIX B: AGENDA

2022 Employer Symposium
 July 13-14, 2022
 Boston, MA



Agenda

Day One

- | | |
|-----------------------|---|
| 1:00 pm | Welcome and Introductions
Past Symposium Recap
Progress Since 2019
Symposium Goals
Lump Sum Reporting and Withholding |
| 3:00 – 3:20 pm | Break
Lump Sum Reporting and Withholding
Income Withholding for Support Orders (IWOs)
e-IWO for Small Employers |
| 5:00 pm | Conclusion – Day One |

Day Two

- | | |
|-------------------------|---|
| 8:30 am | Day One Recap – Day Two Objectives
National Employer Database |
| 10:30 – 11:00 am | Break
National Employer Database
Independent Contractors |
| 12:00 – 1:30 pm | Lunch
Opportunities to Improve Communication and Exchange Information
New Ways to Pay Employees |
| 3:30 pm | Break |
| 5:00 pm | Next Steps/Conclusion |

LUMP SUM REPORTING AND WITHHOLDING EMPLOYER FEEDBACK

Scenario: A large employer has employees located in several states, some with lump-sum reporting requirements and some without. On April 15, the employer notifies child support agencies about upcoming bonus payments to employees scheduled for June 1.

Happy Path—Ideal Reporting and Withholding Process

1. By May 10, child support agencies notify the employer to withhold from the bonus payment or release the payment to the NCP/employee on June 1.
2. On June 1, NCPs/employees receive either full amount of bonus or a reduced amount based on the notice/order to withhold from the child support agency, up to the CCPA withholding limits.

Issue—Hold Period and No Response Timeframe

1. Several states have a requirement for an employer to hold the payment for a specified number of days from the payout date versus the date the agency was notified.
2. Some states have a requirement for an employer to hold the payment for an unspecified period before releasing it to their employee/NCP. If no response timeframe is identified by a state, the employer does not know when to release payments without a specific response from the agency. This prevents employers from automating the process.
3. One of the states that has a 30 day hold period from the payout date responds to the employer on May 3 and provides withholding and release instructions for the NCPs.
4. As of June 1, the other states have not responded, and the employer starts contacting them to determine whether to withhold or release the bonus payment.
5. On June 3, one of the states that had four matches responds, but only for one of the matches.
6. The employer makes several attempts to follow up with the states since the employer is required to hold the payment after June 1.
 - This could be until July 1 in states with a 30-day hold period or
 - indefinitely if the state does not have a response timeframe included in their reporting and withholding requirements.
7. The employer's inability to release the bonus to the employee by June 1 results in unhappy employees and employers and delayed collections for families.

Issue—Reporting Threshold

1. The threshold amount to trigger lump sum reporting varies in eight states. Only one of the eight states allows for reporting a "lesser amount or an amount to be determined".
2. The bonus amounts are based on company earning and change until May 31. At the time of reporting (April 15), the employer did not know the actual bonus amount.
3. One employee/NCP's bonus was \$400.
4. The employer received an order from a state with a \$500 reporting threshold.
 - The order instructs the employer to withhold 50% or \$1000.
 - The employer withholds \$200 (50%).
 - The employee is upset and does not want the employer to withhold since their bonus was below the reporting threshold for that state.
 - The employer withholds since the state issued a valid withholding order.

Issue—Notice to Withhold Exceeds CCPA Limits

1. A state notifies an employer to withhold 100% of the bonus payment.
2. The employer contacted the agency to question the 100%, and the agency stated to withhold 50%.
3. This is an on-going issue in some states and may result in an employer being liable for making the employee whole if that employer is not aware that federal CCPA withholding limits apply to nearly all employer-issued lump sum payments.

Issue—Notice/Response from State to Withhold

1. The employer instructed states to send individual orders for each withholding request.
2. The employer is using OCSE's e-IWO process and would ideally like to receive all lump sum withholding requests through e-IWO to reduce the manual entry of other withholding requests.
3. The employer received various forms of notices:
 - faxed handwritten notices
 - spreadsheets containing all NCPs and corresponding withholding amounts
 - e-IWOs
 - paper IWOs, and
 - state-specific notices.
4. The employer received a spreadsheet containing all NCPs and corresponding withholding amounts from one state less than two weeks before to the payout date.
 - The employer responded to the agency, returned the spreadsheet and reiterated that individual notices are required to process the withholding request.
 - The agency did not send any individual notices.
 - The Friday prior to the payout, and not having received the individual notices, the employer had to make multiple copies of the list, redact each line not applicable to the employee so it could be scanned into each employee's folder. **This was a manual, labor-intensive process.**
 - One employee asked for a copy of the order to withhold the employer received from the state. The employer provided a copy of the redacted list.

NOTE: Some employers agree to accept and even prefer spreadsheets. However, if an employer requires individual notices, agencies should comply with the request.

APPENDIX D: MODEL LEGISLATION ON MANAGING LUMP-SUM PAYMENTS FOR CHILD SUPPORT

MODEL LEGISLATION ON MANAGING LUMP-SUM

PAYMENTS FOR CHILD SUPPORT

Lump-Sum Collaborative Workgroup Document

Final Draft

EXPLANATORY NOTE

This model act is designed to address lump-sum payments for child support through withholding by income payers (i.e., employers) in cases enforced under Title IV-D of the Social Security Act. Lump-sum reporting requirements in other, privately-enforced, child support or lump-sum payments outside the employee or independent contractor relationship (i.e., lottery ticket winnings or bank accounts) are outside the scope of this model act.

This model act is intended to promote compliance with the Consumer Credit Protection Act (CCPA) under 15 U.S.C. § 1672(a) and (b), particularly as interpreted by the U.S. Department of Labor in Opinion Letter CCPA2018-1NA (April 12, 2018).

SECTION 1. SHORT TITLE

This act shall be cited as [_____].

SECTION 2. PREAMBLE

The legislature finds the following:

(1) The Lump-Sum Collaborative Workgroup – a group consisting of representatives from state child support enforcement agencies and payroll professionals from the American Payroll Association, prepared this model act, with technical assistance from the Employer Services Team of the federal Office of Child Support Enforcement.

(2) The Lump Sum Collaborative Workgroup recognizes the importance of child support for families with children and the critical role income payers play as the primary source of income for many parents who owe child support.

(3) States that have adopted a program for withholding and collection of lump-sum payments for child support arrears have seen increases in funds going to children and for necessary state child support management resources.

(4) States with programs have differing requirements regarding the management of lump-sum payments for child support arrearages, which makes communicating among states and income payers less efficient.

(5) Income payers face a risk of liability for failing to timely pay employees their earned income by holding a lump-sum payment pending a state response on whether arrears for child support are owed and withholding is required.

(6) Income payers face a risk of liability if a lump-sum payment is released to an employee before receiving a state response about arrears for child support and withholding, even if the income payer is complying with state wage and hour laws.

SECTION 3. DEFINITIONS

As used in this act:

(1) "Child support agency" means an agency or political subdivision of this state that is authorized under the laws of this state to seek enforcement of support orders or laws relating to the duty of support under Title IV-D of the Social Security Act;

(2) "Disposable Earnings" means that part of the earnings of any obligor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(3) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise.

(4) "Income Withholding Order" means an order or other legal process issued by a child support agency to an obligor's employer or income payer, as defined by [insert cite], to withhold support from the income of the obligor.

(5) "Lump-Sum Payment" includes, but is not limited to, discretionary and non-discretionary bonuses, commissions, performance bonuses, merit increases, safety awards, signing bonuses, moving and relocation incentive payments, holiday pay, termination pay, and severance pay. Lump-sum payment also includes workers' compensation, insurance settlements, and personal injury settlements paid as replacement for wages owed. Lump-sum payment means income other than a periodic recurring payment of earnings on regular paydays and does not include reimbursement for expenses.

(6) "Obligor" means an individual who owes a duty of child support under a support order issued or enforced

under the laws of this state.

Comment

The definitions in this section are intended to cover a broad variety of lump-sum payments that are potentially available for collection of child support as "extra money" in addition to wages or other periodic earnings, yet ensure that the amount withheld from disposable earnings is consistent with CCPA limits.

SECTION 4. REPORTING OF LUMP SUMS

An income payer who has been served with an income withholding order for an obligor by a child support agency that includes a provision for payment toward child support arrears shall notify the child support agency before making any lump-sum payment of more than \$150 to the obligor. An income payer may report a lump-sum payment of a smaller amount or an amount yet to be determined. The notice must be in a format acceptable to the child support agency.

Comment

The requirements in this model act apply equally to large, multi-state, income payers with sophisticated computer systems and small income payers who report and remit payments on an individual basis. To manage the demands on income payers with widely different internal procedures and in recognition that lump-sum reporting is primarily intended as a supplement to an income withholding order to collect child support arrears, an income payer is not required to report lump sums unless the child support agency is already attempting to use an income withholding order to the income payer to collect an amount from recurring wage payments for those arrears. If the income withholding order does not direct the income payer to withhold for arrears, an income payer is safe to assume no arrears are owed and is not required to report any lump sums payable to the obligor.

The \$150 threshold for reporting lump sums is patterned after the threshold for using the federal offset program to collect arrears from federal income tax refunds in cases where the arrears are assigned to the government. The amount was discussed extensively by participants in the workgroup and is a reasonable approach to create standardization among states.

If an income payer does not yet know the amount of an upcoming lump-sum payment, or if an income payer does business in more than one jurisdiction with different reporting thresholds, the income payer is protected under the act if it chooses to report lump sums of an unknown amount or an amount lower than the threshold adopted by the state. If it is easier for an income payer, all lump-sum payments can be reported under the act regardless of the amount.

SECTION 5. RETENTION OF PORTION OF LUMP SUM

(1) An income payer who reports a lump-sum payment under this act shall determine the amount of the lump-sum payment which consists of disposable earnings and may disburse 50% of that amount to the obligor.

(2) The income payer must withhold and remit to the child support agency the amount needed to comply with the income withholding order.

(3) Notwithstanding any other provision of state law, unless otherwise agreed to by the income payer and the child support agency, the income payer may not disburse the remaining amount of the lump-sum payment before the earlier of:

(a) The 15th calendar day after the date on which the income payer reports the lump-sum payment or

(b) The date on which the income payer receives authorization from the child support agency to make all or a portion of the lump-sum payment.

Comment

This section establishes a priority for the income payer to satisfy any existing income withholding order out of a lump-sum payment.

An income payer is in the position to know whether the lump-sum payment constitutes disposable earnings for CCPA purposes. Although a withholding limit in excess of 50% may apply in certain cases, an income payer will generally not be in a position to know whether the case facts warrant such excess withholding. Accordingly, for simplicity, and to ensure compliance with the CCPA, 50% of the portion of a lump sum that constitutes disposable earnings must be disbursed as scheduled by the income payer.

This section ensures that the income payer will wait to make a lump-sum payment to an obligor for 14 calendar days, except for the amount required to be paid to the obligor immediately to ensure CCPA compliance, in order to give

the child support agency an opportunity to review the case and determine whether some or all of the retained portion of a lump-sum payment should be collected for child support.

This section places an affirmative responsibility on the child support agency to respond to an income payer report of a lump-sum payment within 14 calendar days. An agency response sooner than 14 calendar days would be better. However, for the benefit of closure in the event the child support agency does not respond, an income payer is free to disburse the remainder of the lump-sum payment to the obligor if the income payer has not heard from the child support agency after 14 calendar days.

In some jurisdictions, the child support agency and an income payer may form an understanding that a lack of response by the child support agency within 14 calendar days is tacit authorization for the income payer to disburse the remaining portion of the lump-sum payment to the obligor.

SECTION 6. RESPONSE TO LUMP-SUM NOTICE

Upon receipt of notice of a lump-sum payment under this section, the child support agency shall respond to the income payer within 14 calendar days after receiving the income payer's report of a lump-sum payment by providing:

(1) A written release indicating that some or all of the portion of the lump-sum payment retained by the income payer may be disbursed to the obligor or

(2) An amended or supplemental income withholding order or other written demand specifying the amount of the lump-sum payment to be remitted to the child support agency on behalf of the obligor.

Comment

This section, in conjunction with the preceding section, requires a child support agency to respond to an income payer's report of a lump sum either by authorizing release of some or all of the funds or by taking steps to compel the income payer to pay to the child support agency the amount that the income payer has retained from a lump-sum payment. Collection from a lump sum by a child support agency under this act is taken administratively rather than requiring judicial authorization.

SECTION 7. COLLECTION OF LUMP SUM

Any written demand under this act must be provided to the obligor and the income payer in the same manner as an income withholding order, is binding on the income payer in the same manner as an income withholding order, and can be appealed in the same manner as an income withholding order.

Comment

For simplicity, withholding from a lump-sum payment is governed by the same state laws that are applicable to income withholding orders.

SECTION 8. IMMUNITY FROM LIABILITY

An income payer who reports, withholds, or remits a lump-sum payment under this section is immune from liability.

Comment

An income payer who is required by state law to report lump-sum payments and obey any subsequent direction from the child support agency deserves to be protected from liability for acts taken to comply with state law.

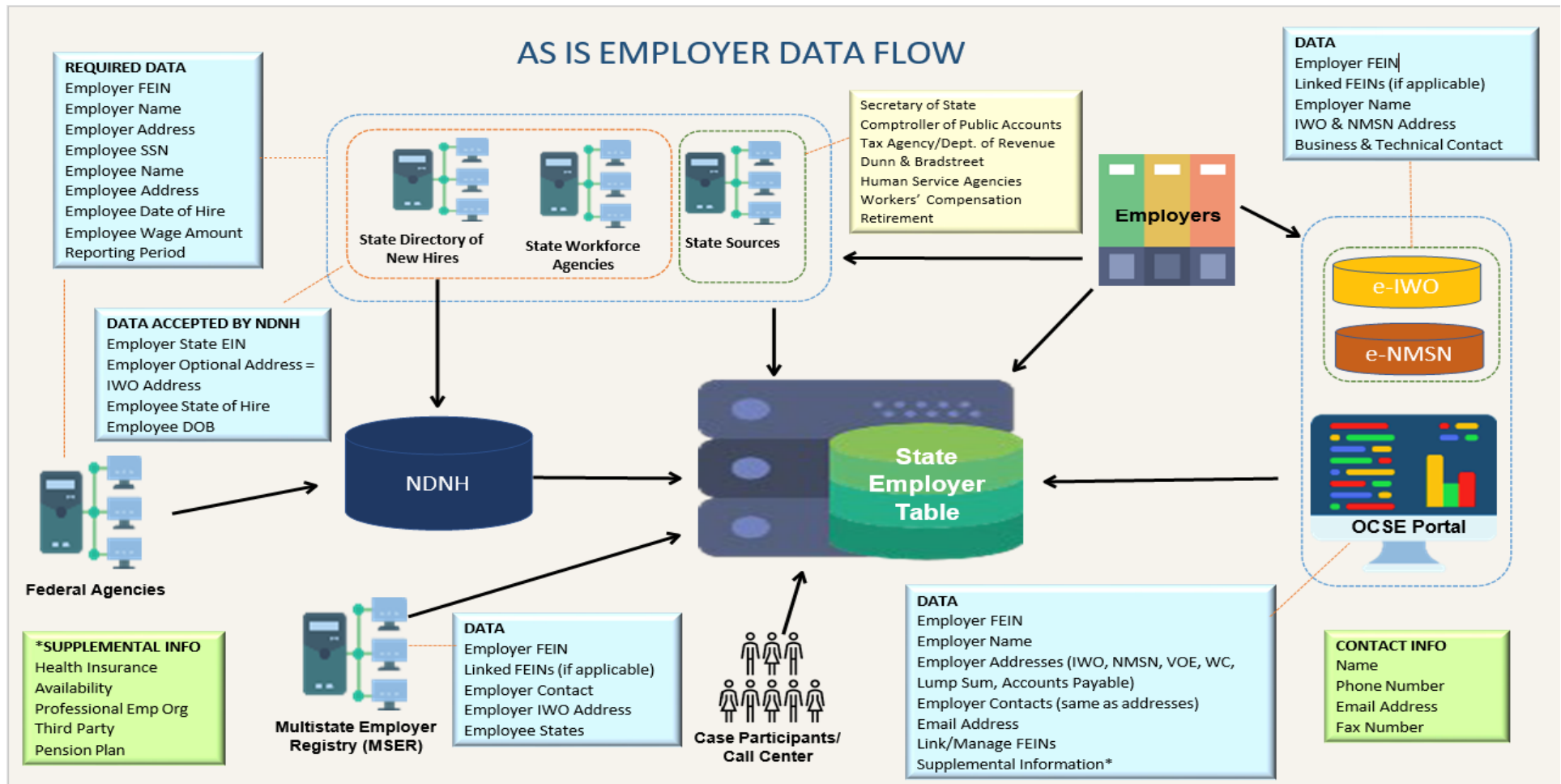
SECTION 9. CHOICE OF LAW

The duties of an income payer under this act are governed by the laws of the state of the obligor's principal place of employment.

Comment

For multi-state income payers, this section clarifies which state laws the income payer must honor regarding the reporting, withholding, and remitting of lump-sum payments, including state laws regarding proration of collections among multiple families who are owed support by the same obligor.

APPENDIX E: 2022 - AS IS EMPLOYER DATA FLOW

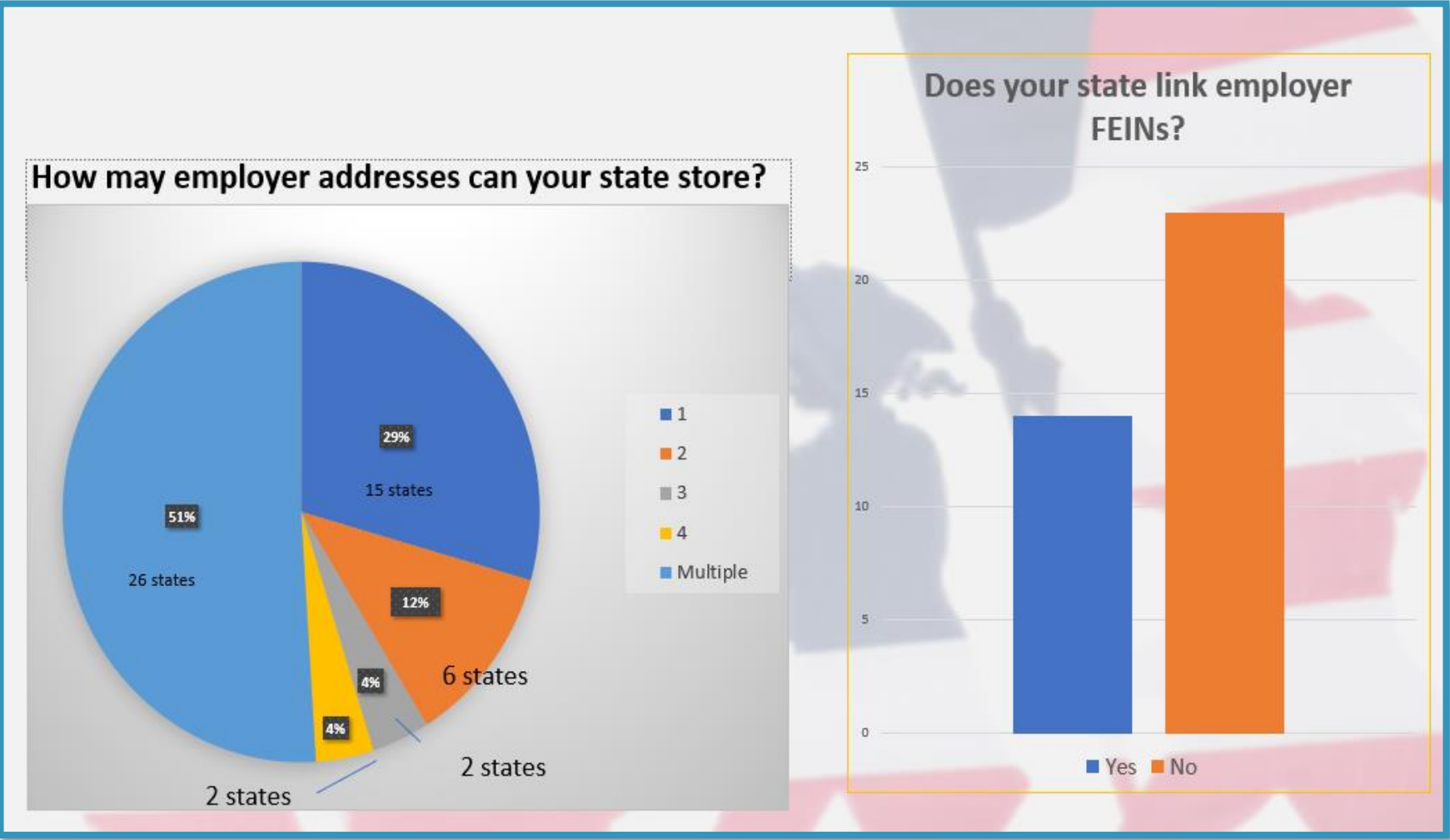


13/52 states require more than the federally mandated data elements for new hire reporting

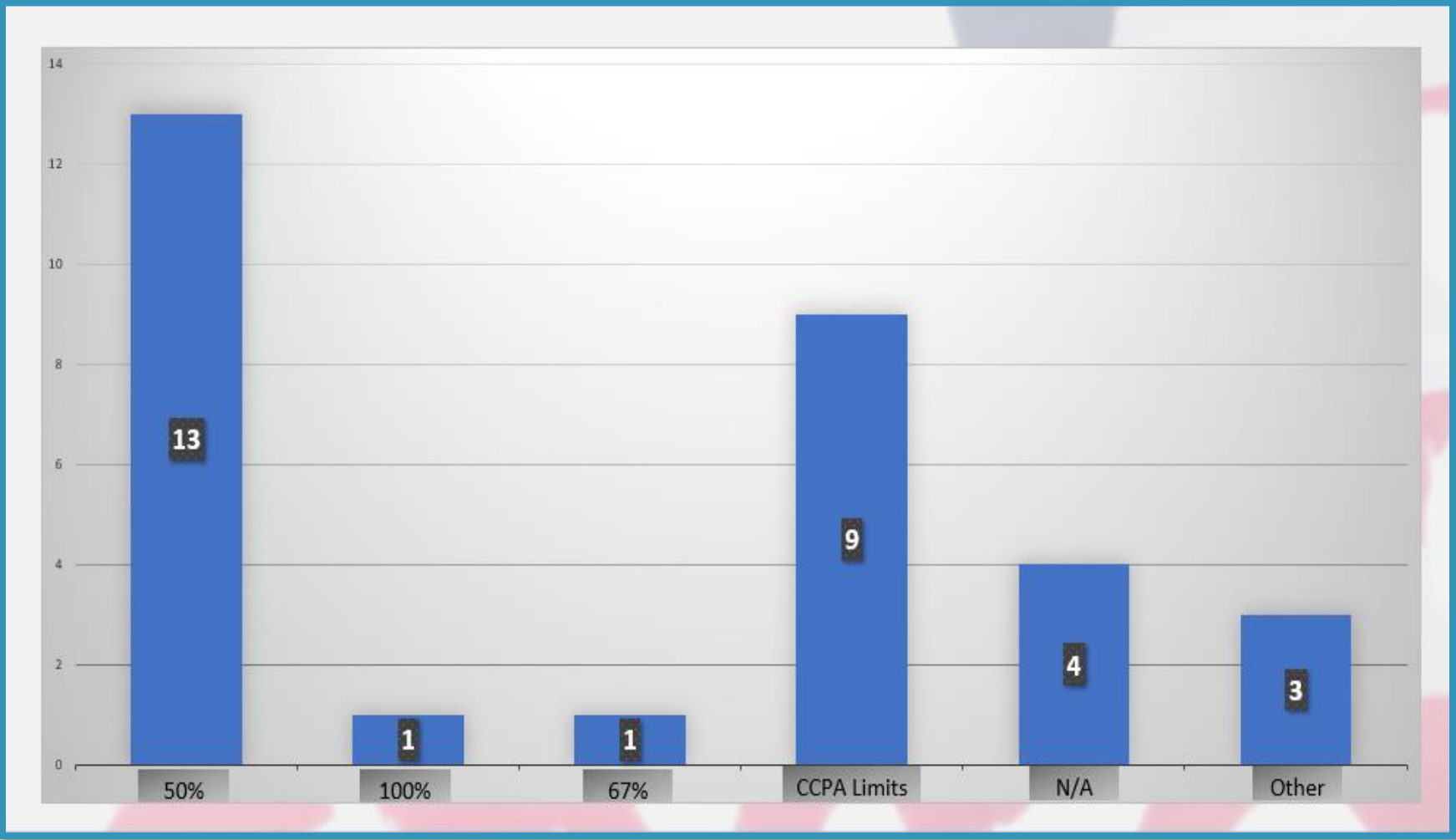
- 9 provided details
 - 5 require date of birth
 - 4 require wages/salary
 - 4 require health insurance information
 - 3 require State Employer Identification Number
 - 2 require pay frequency
 - 1 requires indicator to identify independent contractor vs. employee

39/52 request additional new hire reporting data elements—optional for employers to provide

- 17 provided details
 - 8 request date of birth
 - 3 request state of hire
 - 7 request employer contact information (phone, email, fax)



APPENDIX H: 2019 SURVEY RESULTS ON INDEPENDENT CONTRACTOR WITHHOLDING LIMITS



How many states have employer portals and if so, for what activities?**19 States have employer portals****Portal Functionality**

New Hire Reporting –7

Send/Receive VOEs –6

Receive/Respond to IWOs –9

Update Employer Info –8

Receive/Respond to NMSN –3

Billing/Payments –5

Communicate with Employers –10

Lump Sum Reporting –7

Report Terminations –3

Developing Employer Portal –2

OCSE PORTALReceiving eTerms through Portal—36 responded

- 22 Yes
- 14 No

Automatic System Update based on eTerm Information—26 responded

- 9 Yes
- 17 No