

provided with written notice of the nature and amount of the adjustment and a point of contact for contesting such adjustment.

(h) These regulations do not preclude the compromise, suspension, or termination of collection action under the Federal Claims Collection Standards (FCCS) (31 CFR parts 900-904) and VA regulations 38 CFR 1.930 through 1.944.

(i) The procedures and requirements of these regulations do not apply to salary offset used to recoup a Federal employee's debt where a judgment has been obtained against the employee for the debt.

(Authority: 5 U.S.C. 5514)

[52 FR 1905, Jan. 16, 1987; 52 FR 23824, June 25, 1987, as amended at 54 FR 34980, Aug. 23, 1989; 69 FR 62202, Oct. 25, 2004]

#### § 1.981 Definitions.

(a) *Agency* means:

(1) An executive agency as defined in 5 U.S.C. 105, including the U.S. Postal Service, and the U.S. Postal Rate Commission, and

(2) A military department as defined in 5 U.S.C. 102.

(3) An agency or court of the judicial branch, including a court as defined in 28 U.S.C. 610, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation;

(4) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

(5) Other independent establishments that are entities of the Federal Government.

(b) *Debt* means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

(c) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld.

Excluded from this definition are deductions described in 5 CFR 581.105(b) through (f).

(d) *Employee* means a current employee of VA or other Federal agency including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves).

(e) *Salary offset* means an attempt to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

(f) *Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt owed by an employee to VA or another Federal agency as permitted or required by 5 U.S.C. 5584 or 38 U.S.C. 5302, or other similar statutes.

(g) *Extreme hardship to an employee* means an employee's inability to provide himself or herself and his or her dependents with the necessities of life such as food, housing, clothing, transportation, and medical care.

(Authority: 5 U.S.C. 5514)

[52 FR 1905, Jan. 16, 1987; 52 FR 23824, June 25, 1987]

#### § 1.982 Salary offsets of debts involving benefits under the laws administered by VA.

(a) VA will not collect a debt involving benefits under the laws administered by VA by salary offset unless the Secretary or appropriate designee first provides the employee with a minimum of 30 calendar days written notice.

(b) If the employee has not previously appealed the amount or existence of the debt under 38 CFR parts 19 and 20 and the time for pursuing such an appeal has not expired (§ 20.302), the Secretary or appropriate designee will provide the employee with written notice of the debt. The written notice will state that the employee may appeal the amount and existence of the debt in accordance with the procedures set forth in 38 CFR parts 19 and 20 and will contain the determination and information required by § 1.983(b)(1) through (5), (7), (9), (10), and (12) through (14). The notice will also state that the employee may request a hearing on the offset schedule under the procedures set forth in § 1.984 and such a request

**§ 1.983**

**38 CFR Ch. I (7-1-20 Edition)**

will stay the commencement of salary offset.

(c) If the employee previously appealed the amount or existence of the debt and the Board of Veterans Appeals decided the appeal on the merits or if the employee failed to pursue an appeal within the time provided by regulations, the Secretary or designee shall provide the employee with written notice prior to collecting the debt by salary offset. The notice will state:

(1) The determinations and information required by § 1.983(b)(1)–(5), (7), and (12)–(14);

(2) That the employee's appeal of the existence or amount of the debt was determined on the merits or that the employee failed to pursue an appeal within the time provided, and VA's decision is final except as otherwise provided in agency regulations;

(3) That the employee may request a waiver of the debt pursuant to 38 CFR 1.911(c)(2) subject to the time limits of 38 U.S.C. 5302.

(4) That the employee may request an oral or paper hearing on the offset schedule and receive a decision within 60 days of such request under the procedures and time limit set forth in § 1.984 and that such a request will stay the commencement of salary offset.

(d) If the employee has appealed the existence or amount of the debt and the Board of Veterans Appeals has not decided the appeal on the merits, collection of the debt by salary offset will be suspended until the appeal is decided or the employee ceases to pursue the appeal.

(Authority: 5 U.S.C. 5514)

[52 FR 1905, Jan. 16, 1987, as amended at 69 FR 62202, Oct. 25, 2004]

**§ 1.983 Notice requirements before salary offsets of debts not involving benefits under the laws administered by VA.**

(a) For a debt not involving benefits under the laws administered by VA, the Secretary or designee will review the records relating to the debt to assure that it is owed prior to providing the employee with a notice of the debt.

(b) Except as provided in § 1.980(e), salary offset of debts not involving benefits under the laws administered by VA will not be made unless the Sec-

retary or designee first provides the employee with a minimum of 30 calendar days written notice. This notice will state:

(1) The Secretary or designee's determination that a debt is owed;

(2) The amount of the debt owed and the facts giving rise to the debt;

(3) The Secretary or designee's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest and associated costs are paid in full;

(4) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(5) An explanation of VA's requirements concerning interest, administrative costs, and penalties;

(6) The employee's right to inspect and copy VA records relating to the debt or, if the employee or his or her representative cannot personally inspect the records, to request and receive a copy of such records;

(7) The employee's right to enter into a written agreement with the Secretary or designee for a repayment schedule differing from that proposed by the Secretary or designee, so long as the terms of the repayment schedule proposed by the employee are agreeable to the Secretary or designee;

(8) The VA employee's right to request an oral or paper hearing on the Secretary or appropriate designee's determination of the existence or amount of the debt, or the percentage of disposable pay to be deducted each pay period, so long as a request is filed by the employee as prescribed by the Secretary. The hearing official for the hearing requested by a VA employee must be either a VA administrative law judge or a hearing official from an agency other than VA. Any VA hearing official may conduct an oral or paper hearing at the request of a non-VA employee on the determination by an appropriately designated official of the employing agency of the existence or amount of the debt, or the percentage of disposable pay to be deducted each pay period, so long as a hearing request is filed by the non-VA employee as prescribed by the employing agency.

(9) The method and time period for requesting a hearing;