

response after which the reviewing official reaches an opinion whether the individual is in compliance.

(c) If the reviewing official determines that the reporting individual is not in compliance with applicable laws and regulations, the reviewing official will notify the individual of that opinion, and after an opportunity for personal consultation, notify the individual of the steps which should be taken to assure compliance and the date by which such steps should be taken.

(d) The use of any steps to bring the individual in compliance are to be in accordance with regulations issued by the Director of the Office of Government Ethics.

(e) To assist employees in avoiding situations in which they would not be in compliance with applicable laws and regulations, the designated Commission ethics official is to maintain a list of those circumstances or situations which have resulted or may result in noncompliance and the lists are to be periodically published and furnished to individuals required to file reports under this Act.

§ 706.24 Public access to financial disclosure reports.

(a) Pursuant to section 205(b) of the Act, each report will be made available for public inspection within 15 days after the report is received by the agency, whether or not the review of the report prescribed by section 206 of the Act has been completed.

(b) Pursuant to section 205(b) of the Act, as amended by Pub. L. 96-19, the following rules are applicable to public access to financial reports:

(1) A financial disclosure report may not be made available to any person nor may a copy thereof be provided to any person except upon written application by such person stating:

(i) That person's name, occupation, and address;

(ii) The name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(iii) That such person is aware that it is unlawful to obtain or use a report:

(A) For any unlawful purpose;

(B) For any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) For determining or establishing the credit rating of any individual; or

(D) For use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose. Any application for a report shall be available to the public during the period in which the requested report is available to the public.

(c) Requests for copies of financial disclosure reports of officers appointed by the President by and with the advice and consent of the Senate, as well as nominees to such offices and designated Commission ethics officials, may be directed to the Director of the Office of Government Ethics.

(d) To gain access to or to obtain a copy of a report filed with the Commission, an individual should appear in person at the office of the Solicitor of the Commission, 1121 Vermont Avenue, NW., Washington, DC 20425, during the hours 8:30 a.m. to 4:30 p.m., and complete an application form. Requests by mail should contain the information described in paragraph (b) of this section, together with the signature of the requester. Requests which do not contain the required information will be returned. Notice of the statutory prohibitions on use will be attached to copies of reports provided in response to a request otherwise properly filled out.

PART 707—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY U.S. COMMISSION ON CIVIL RIGHTS

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707.11 Eliminating discriminatory qualifications and selection criteria.

707.12 Compliance procedures.

AUTHORITY: 29 U.S.C. 794.

SOURCE: 55 FR 5786, Feb. 16, 1990, unless otherwise noted.

§ 707.1 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 707.2 Application.

This part applies to all programs and activities, including employment, conducted by the Agency.

§ 707.3 Definitions.

For the purposes of this part, the term—

(a) *Agency* means the U.S. Commission on Civil Rights and its State Advisory Committees.

(b) *Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

(c) *Complete complaint* means a written statement that contains the complainant's name and address and describes the Agency's alleged discriminatory action in sufficient detail to inform the Agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall

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describe or identify (by name, if possible) the alleged victims of discrimination.

(d) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, vehicles, or other real or personal property.

(e) *Individual with handicaps* means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) *Physical or mental impairment* includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

(2) *Major life activities* includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major

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life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (e)(1) of this definition but is treated by the Agency as having such an impairment.

(f) *Qualified individual with handicaps* means—

(1) With respect to any Agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the Agency can demonstrate would result in a fundamental alteration in its nature; and

(2) With respect to employment, an individual with handicaps who meets the definition set forth in 29 CFR 1613.702(f), which is made applicable to this part by § 707.7 of this rule.

(3) With respect to any other Agency program or activity, an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(g) *Section 504* means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (19 U.S.C. 794), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617); the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978 (Pub. L. 95-602, 92 Stat. 2955); the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810); and the Civil Rights Restoration Act of 1987 (Pub. L. 100-259, 102 Stat. 28). As used in this part, section 504 applies only to programs or activities conducted by the Agency. The Agency does not operate any programs of Federal financial assistance to other entities.

§ 707.4 Self-evaluation and remedial measures.

(a) The Agency shall, within one year of the effective date of this part, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of

any such policies and practices is required, the Agency shall proceed to make the necessary modifications.

(b) The Agency shall provide an opportunity to interested persons, including individuals with handicaps and organizations representing individuals with handicaps, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The Agency shall, for at least three years following completion of the evaluation required under paragraph (a) of this section, maintain on file and make available for public inspection:

(1) A description of areas examined and any problems identified; and

(2) A description of any modifications made.

§ 707.5 Notice.

(a) The Agency shall make available to all employees, applicants, and other interested persons, as appropriate, information regarding the provisions of this part and its applicability to the programs or activities conducted by the Agency, and such information shall be made available to the extent the Staff Director finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this part.

(b) The Agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The Agency shall take appropriate steps to provide individuals with handicaps with information regarding their section 504 rights under the Agency's programs or activities.

§ 707.6 General prohibitions against discrimination.

(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Agency.

(b)(1) The Agency, in providing any aid, benefit, or service, shall not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

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(i) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with handicaps with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps than is provided to others unless such action is necessary to provide qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with handicaps the opportunity to participate as a member of planning or advisory boards or committees; or

(vi) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The Agency shall not deny a qualified individual with handicaps the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The Agency shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity, with respect to individuals with handicaps.

(4) The Agency shall not, in determining the site or location of a facility or activity make selections the purpose or effect of which would—

(i) Exclude individuals with handicaps from, deny them the benefits of,

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or otherwise subject them to discrimination under any program or activity conducted by the Agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(5) The Agency, in the selection of procurement contractors, shall not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to individuals with handicaps or the exclusion of a specific class of individuals with handicaps from a program limited by Federal statute or Executive order to a different class of individuals with handicaps is not prohibited by this part.

(d) The Agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

§ 707.7 Employment.

No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the Agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in programs or activities conducted by the Agency.

§ 707.8 Physical access.

(a) *Discrimination prohibited.* Except as otherwise provided in this section, no qualified individual with handicaps shall, because the Agency's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Agency.

(b) *Existing facilities-program access—*
(1) *Existing facilities defined.* For the purpose of this section, "existing facilities" means those facilities owned, leased or used through some other arrangement by the Agency on March 28, 1990.

(2) *General.* The Agency shall operate each program or activity conducted in an existing facility so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraphs does not—

(i) Necessarily require the Agency to make each of its existing facilities accessible to and usable by individuals with handicaps.

(ii) Require the Agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where Agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Agency has the burden of proving that compliance with this paragraph would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Staff Director or his or her designee after considering all Agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the Agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.

(3) *Methods.* (i) The Agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to individuals with handicaps, delivery of services at alternative accessible sites, alteration of existing facilities and construction of new facilities, use of accessible vehicles, or any other methods that result in making its program or activities readily accessible to and usable by individuals with handicaps.

(ii) The Agency is not required to make structural changes in existing facilities where other methods are effective

in achieving compliance with paragraph (b)(2) of this section. The Agency, in making alterations to existing buildings to achieve program accessibility, shall meet accessibility requirements imposed by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 through 4157), as established in 41 CFR 101-19.600 to 101-19.607.

(iii) In choosing among available methods for meeting the requirements of this section, the Agency shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

(4) *Time period for compliance.* The Agency shall comply with the obligations established under this section within sixty days of the effective date of this part, except that where structural changes in facilities are undertaken, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(5) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the Agency shall develop, within 6 months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The Agency shall provide an opportunity to interested persons, including individuals with handicaps and organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(i) Identify physical obstacles in the Agency's facilities that limit the accessibility of its programs or activities to individuals with handicaps;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve compliance with this paragraph and, if the time period of the transition plan is longer than 1 year, identify steps that

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will be taken during each year of the transition period; and

(iv) Indicate the official response for implementation of the plan.

(6) The Agency shall provide signs at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(c) *New purchases, leases or other arrangements.* (1) Any building or facility acquired after March 28, 1990, whether by purchase, lease (other than lease renewal), or any other arrangement, shall be readily accessible to and usable by individuals with handicaps.

(2) Nothing in this paragraph requires the Agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where Agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Agency has the burden of proving that compliance with this paragraph would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Staff Director or his or her designee after considering all Agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the Agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.

(d) *New construction and alterations.* Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the Agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps in accordance with the requirements imposed by the Architectural Barriers

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Act of 1968, as amended (42 U.S.C. 4151 through 4157), as established in 41 CFR 101-19.600 to 101-19.607.

707.9 Access to communications.

(a) *Discrimination prohibited.* Except as otherwise provided in this section, no qualified individual with handicaps shall, because the Agency's communications are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Agency.

(b) The Agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(c) *Specific requirements regarding oral communications—*(1) *Telecommunications devices for deaf persons.* (i) The Agency headquarters and each regional office shall maintain and reliably answer at least one telecommunications device for deaf persons (TDD) or equally effective telecommunications device.

(ii) The Agency shall ensure that all Agency letterhead, forms, and other documents listing any Agency telephone number list the appropriate TDD numbers.

(2) *Interpreter service.* (i) The Agency shall establish a reliable system for the provision of qualified interpreters to individuals with handicaps for Agency programs or activities. This provision does not require the Agency to have an interpreter on staff, but does require the Agency to be able to provide a qualified interpreter on reasonable notice.

(ii) Notice of the availability of interpreter service shall be included in all announcements notifying the public of Agency activities to which the public is invited or which it is permitted to attend, including but not limited to the U.S. Commission on Civil Rights' meetings, consultations, hearings, press conferences and State Advisory Committee conferences and meetings. This notice shall designate the Agency official(s) and the address, telephone and TDD number to call to request interpreter services.

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(d) *Specific requirements for printed communications.* (1) The Agency shall establish a system to provide to individuals with handicaps appropriate reader or taping service for all Agency publications which are available to the public. This provision does not require the Agency to have a reader or taper or staff, but does require the Agency to be able to provide appropriate reader or taping service within a reasonable time and on reasonable notice. The Agency shall effectively notify qualified individuals with handicaps of the availability of reader or taping services.

(2) Notice of the availability of reader or taping service shall be included in all publications which are available to the public. This notice shall designate the Agency official(s) and the address, telephone and TDD number to call to request interpreter services.

(e) Nothing in this section or § 707.10 requires the Agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where Agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Agency has the burden of proving that compliance with this section or § 707.10 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Staff Director or his or her designee after considering all Agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this paragraph would result in such an alteration or such burdens, the Agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§ 707.10 Auxiliary aids.

(a) The Agency shall furnish appropriate auxiliary aids where necessary

to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the Agency.

(b) In determining what type of auxiliary aid is necessary, the Agency shall give primary consideration to the requests of the individual with handicaps.

(c) The Agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

§ 707.11 Eliminating discriminatory qualifications and selection criteria.

The Agency shall not make use of any qualification standard, eligibility requirement, or selection criterion that excludes particular classes of individuals with handicaps from an Agency program or activity merely because the persons are handicapped, without regard to an individual's actual ability to participate. An irrebuttable presumption of inability to participate based upon a handicap shall be permissible only if the condition would, in all instances, prevent an individual from meeting the essential eligibility requirements for participating in, or receiving the benefits of, the particular program or activity.

§ 707.12 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the Agency.

(b) The Agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Office of General Counsel.

(d) The Agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180

days of the alleged act of discrimination. The Agency may extend this time period for good cause.

(e) If the Agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate Government entity.

(f) The Agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 through 4157), is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the Agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the Agency of the letter required by §707.12(g). The Staff Director may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Staff Director or the Staff Director's designee.

(j) The Agency shall notify the complainant in writing of the results of the appeal within 60 days of the receipt of the request. If the head of the Agency determines that additional information is needed from the complainant, it shall have 60 days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in paragraphs (d), (g), (h), and (j) of this section may be extended for an individual case when the Staff Director determines that there is good cause, based on the particular circumstances of that case, for the extension.

(l) The Agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making

the final determination may not be delegated to another Agency.

PART 708—COLLECTION BY SALARY OFFSET FROM INDEBTED CURRENT AND FORMER EMPLOYEES

Sec.

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- 708.10 Procedures for salary offset.
- 708.11 Refunds.
- 708.12 Statute of limitations.
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- 708.14 Interest, penalties, and administrative costs.

AUTHORITY: 5 U.S.C. 5514; sec. 8(1) of E.O. 11609; redesignated in sec. 2-1 of E.O. 12107.

SOURCE: 58 FR 4351, Jan. 14, 1993, unless otherwise noted.

§708.1 Purpose and scope.

(a) These regulations provide the procedure pursuant to 5 U.S.C. 5514 and 5 CFR part 550 subpart K for the collection by administrative offset of a Federal employee's salary without his/her consent to satisfy certain debts owed to the Federal government. This procedure applies to all Federal employees who owe debts to the U.S. Commission on Civil Rights ("the Commission"). This provision does not apply when the employee consents to recovery from his/her current pay account.

(b) This procedure does not apply to debts or claims arising under:

(1) The Internal Revenue Code of 1954, as amended (26 U.S.C. 1 et seq.);

(2) The Social Security Act (42 U.S.C. 301 et seq.);

(3) The tariff laws of the United States; or

(4) To any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).