

## Office of the Secretary, Education

## § 31.3

### § 31.2 Definitions.

As used in this part:

*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;

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

(3) An agency or court in 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) Any other independent establishment that is an entity of the Federal Government.

*Days* refer to calendar days.

*Department* means the Education Department.

*Disposable pay* means the amount that remains from an employee's pay after required deductions for Federal, State, and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs; premiums for basic life insurance and health insurance benefits; and such other deductions that are required by law to be withheld.

*Employee* means a current or former employee of an agency. In the case of an offset proposed to collect a debt owed by a deceased employee, the references in this part to the employee shall be read to refer to the payee of benefits from the Federal retirement account or other pay of the employee.

*Federal retirement account* means an account of an employee under the Civil Service Retirement System or the Federal Employee Retirement System.

*Offset* means a deduction from the pay of an employee, or a payment due from the Federal retirement account of an employee, to satisfy a debt.

*Pay* means basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay, including severance pay or lump sum payments for accrued annual leave, and amounts payable from the Federal retirement account of an employee.

*Secretary* means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

### § 31.3 Pre-offset notice.

(a) At least 65 days before initiating an offset against the pay of an employee, the Secretary sends a written notice to the employee stating—

(1) The nature and amount of the debt;

(2) A demand for payment of the debt;

(3) The manner in which the Secretary charges interest, administrative costs, and penalties on the debt;

(4) The Secretary's intention to collect the debt by offset against—

(i) 15 percent of the employee's current disposable pay; and

(ii) If the debt cannot be satisfied by offset against current disposable pay, a specified amount of severance pay, a lump sum annual leave payment, a final salary check, or payments from the Federal retirement account of the employee;

(5) The amount, frequency, approximate beginning date and duration of the proposed offset;

(6) The employee's opportunity to—

(i) Inspect and copy Department records pertaining to the debt;

(ii) Obtain a pre-offset hearing before a hearing official who is not under the control or supervision of the Secretary regarding the existence or amount of the debt, or the proposed offset schedule; and

(iii) Enter into a written agreement with the Secretary to repay the debt;

(7) The date by which the employee must request an opportunity set forth under paragraph (a)(6) of this section;

(8) The grounds for objecting to collection of the debt by offset;

(9) The applicable hearing procedures and requirements;

(10) That the Secretary grants any request for access to records, for a hearing, or for a satisfactory repayment agreement made by an employee;

(11) That the Secretary does not delay the start of the proposed offset, or suspend an offset already commenced, unless—