

### § 5.13

(2) *Oral hearing.* An employee who requests an oral hearing shall be provided an oral hearing if the hearing official or administrative law judge determines that the matter cannot be resolved by review of documentary evidence alone (*e.g.*, when an issue of credibility or veracity is involved). The hearing is not an adversarial adjudication, and need not take the form of an evidentiary hearing. Oral hearings may take the form of, but are not limited to:

(i) Informal conferences with the hearing official or administrative law judge, in which the employee and agency representative will be given full opportunity to present evidence, witnesses and argument;

(ii) Informal meetings with an interview of the employee; or

(iii) Formal written submissions, with an opportunity for oral presentation.

(3) *Paper hearing.* If the hearing official or administrative law judge determines that an oral hearing is not necessary, he or she will make the determination based upon a review of the available written record (5 U.S.C. 5514).

(4) *Record.* The hearing official must maintain a summary record of any hearing provided by this subpart. See 4 CFR 102.3. Witnesses who testify in oral hearings will do so under oath or affirmation.

(h) *Date of decision.* The hearing official or administrative law judge shall issue a written opinion stating his or her decision, based upon documentary evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than sixty (60) days after the date on which the petition was received by the creditor agency, unless the employee requests a delay in the proceedings. In such case the sixty (60) day decision period shall be extended by the number of days by which the hearing was postponed.

(i) *Content of decision.* The written decision shall include:

(1) A statement of the facts presented to support the origin, nature, and amount of the debt;

(2) The hearing official's findings, analysis and conclusions; and

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(3) The terms of any repayment schedules, if applicable.

(j) *Failure to appear.* In the absence of good cause shown (*e.g.*, excused illness), an employee who fails to appear at a hearing shall be deemed, for the purpose of this subpart, to admit the existence and amount of the debt as described in the notice of intent. If the representative of the creditor agency fails to appear, the hearing official shall proceed with the hearing as scheduled, and make his/her determination based upon the oral testimony presented and the documentary documentation submitted by both parties. At the request of both parties, the hearing official shall schedule a new hearing date. Both parties shall be given reasonable notice of the time and place of this new hearing.

### § 5.13 Certification.

(a) The bureau salary offset coordination officer shall provide a certification to the paying agency in all cases where:

(1) The hearing official determines that a debt exists;

(2) The employee admits the existence and amount of the debt by failing to request a hearing; or

(3) The employee admits the existence of the debt by failing to appear at a hearing.

(b) The certification must be in writing and must state:

(1) The employee owes the debt;

(2) The amount and basis of the debt;

(3) The date the Government's right to collect the debt first accrued;

(4) The Department's regulations have been approved by OPM pursuant to 5 CFR part 550, subpart K;

(5) The amount and date of the lump sum payment;

(6) If the collection is to be made in installments, the number of installments to be collected, the amount of each installment, and the commencing date of the first installment, if a date other than the next officially established pay period is required; and

(7) The dates the action(s) was taken and that it was taken pursuant to 5 U.S.C. 5514.