

collect the debt were not known and could not reasonably have been known by the official or officials of the Government who are charged with the responsibility to discover and collect the debt.

(2) If paragraph (c)(1) of this section applies, the Secretary may rely on 31 U.S.C. 3716 as authority for offset up to 10 years after the date that the official or officials described in that paragraph first knew or reasonably should have known of the right of the United States to collect the debt.

(d) The Secretary determines when the right to collect a debt first accrued under the existing law regarding accrual of debts such as 28 U.S.C. 2415.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

[51 FR 24099, July 1, 1986, as amended at 51 FR 35646, Oct. 7, 1986; 53 FR 33425, Aug. 30, 1988; 54 FR 43583, Oct. 26, 1989]

**§ 30.21 When may the Secretary offset a debt?**

(a) The Secretary may offset a debt if:

(1) The debt is liquidated or certain in amount; and

(2) Offset is feasible and not otherwise prohibited.

(b)(1) Whether offset is feasible is determined by the Secretary in the exercise of sound discretion on a case-by-case basis, either:

(i) For each individual debt or offset; or

(ii) For each class of similar debts or offsets.

(2) The Secretary considers the following factors in making this determination:

(i) Whether offset can be practically and legally accomplished.

(ii) Whether offset will further and protect the interests of the United States.

(c) The Secretary may switch advance funded grantees to a reimbursement payment system before initiating an offset.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

**§ 30.22 What notice does the debtor receive before the commencement of offset?**

(a)(1) Except as provided in §§ 30.28 and 30.29, the Secretary provides a debtor with written notice of the Secretary's intent to offset before initiating the offset.

(2) The Secretary mails the notice to the debtor at the current address of the debtor, as determined by the Secretary from information regarding the debt maintained by the Department.

(b) The written notice informs the debtor regarding:

(1) The nature and amount of the debt;

(2) The Secretary's intent to collect the debt by offset;

(3) The debtor's opportunity to:

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

(ii) Obtain a review within the Department of the existence or amount of the debt; and

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

(4) The date by which the debtor must request an opportunity set forth under paragraph (b)(3) of this section; and

(5) The Secretary's decision, in appropriate cases, to switch the debtor from advance funding to a reimbursement payment system.

(c)(1) In determining whether a debtor has requested an opportunity set forth under paragraph (b)(3) of this section in a timely manner, the Secretary relies on:

(i) A legibly dated U.S. Postal Service postmark for the debtor's request; or

(ii) A legibly stamped U.S. Postal service mail receipt for debtor's request.

(2) The Secretary does not rely on either of the following as proof of mailing:

(i) A private metered postmark.

(ii) A mail receipt that is not dated by the U.S. Postal Service.

NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method for proof of mailing, a debtor should check with its local post office.

(d) If a debtor previously has been notified of the Secretary's intent to offset or offered an opportunity to take any

### § 30.23

of the actions set forth in paragraph (b)(3) of this section in connection with the same debt, the Secretary may offset without providing the debtor with an additional notice of intent or opportunity to take any of those actions under these offset procedures.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

#### **§ 30.23 How must a debtor request an opportunity to inspect and copy records relating to a debt?**

(a) If a debtor wants to inspect and copy Department documents relating to the debt, the debtor must:

(1) File a written request to inspect and copy the documents within 20 days after the date of the notice provided under § 30.22; and

(2) File the request at the address specified in that notice.

(b) A request filed under paragraph (a) of this section must contain:

(1) All information provided to the debtor in the notice under § 30.22 or § 30.33(b) that identifies the debtor and the debt, including the debtor's Social Security number and the program under which the debt arose, together with any corrections of that identifying information; and

(2) A reasonably specific identification of the records the debtor wishes to have available for inspection and copying.

(c) The Secretary may decline to provide an opportunity to inspect and copy records if the debtor fails to request inspection and copying in accordance with this section.

(Approved by the Office of Management and Budget under control number 1880-0515)

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

[51 FR 24099, July 1, 1986, as amended at 51 FR 35646, Oct. 7, 1986]

#### **§ 30.24 What opportunity does the debtor receive to obtain a review of the existence or amount of a debt?**

(a) If a debtor wants a review within the Department of the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii), the debtor must:

(1) File a request for review within 20 days after the date of the notice provided under § 30.22; and

### 34 CFR Subtitle A (7-1-04 Edition)

(2) File a request at the address specified in that notice.

(b) A request filed under paragraph (a) of this section must contain:

(1) All information provided to the debtor in the notice under § 30.22 or § 30.33(b) that identifies the debtor and the particular debt, including the debtor's Social Security number and the program under which the debt arose, together with any corrections of that identifying information; and

(2) An explanation of the reasons the debtor believes that the notice the debtor received under § 30.22 or § 30.33(b) inaccurately states any facts or conclusions relating to the debt.

(c) The Secretary may decline to provide an opportunity for review of a debt if the debtor fails to request the review in accordance with this section.

(d)(1) The debtor shall:

(i) File copies of any documents relating to the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) that the debtor wishes the Secretary to consider in the review;

(ii) File the documents at the address specified in that notice, and

(iii) File the documents no later than:

(A) 20 days after the date of the notice provided under § 30.22; or

(B) If the debtor has requested an opportunity to inspect and copy records under § 30.23 within the time period specified in that section, 15 days after the date on which the Secretary makes available to the debtor the relevant, requested records.

(2) The Secretary may decline to consider any reasons or documents that the debtor fails to provide in accordance with paragraphs (b) and (d) of this section.

(e) If the Secretary bases the review on only the documentary evidence, the Secretary:

(1) Reviews the documents submitted by the debtor and other relevant evidence; and

(2) Notifies the debtor in writing of the Secretary's decision regarding the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) and, if