

rights under the agency's programs or activities.

(c) This section does not 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 §365.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Chief Executive Officer 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 section 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.

§§ 365.161–365.169 [Reserved]

§365.170 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) Except with respect to complaints arising under §365.170(b), responsibility for implementation and operation of this section shall be vested in the Chief Executive Officer.

(d) The Chief Executive Officer shall accept and investigate all complete

complaints for which he or she has jurisdiction. All complete complaints must be filed within 90 days of the alleged act of discrimination. The Chief Executive Officer may extend this time period for good cause.

(e) If the Chief Executive Officer receives a complaint over which the agency does not have jurisdiction, he or she shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

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

(g) Within 120 days of the receipt of a complete complaint under §365.170(d) for which the agency has jurisdiction, the Chief Executive Officer 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 45 days of receipt from the Chief Executive Officer of the letter required by §365.170(g). The Chief Executive Officer may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Board.

(j) The Board shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the Board determines that it needs additional information from the complainant, it shall have 30 days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies

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except that the authority for making the final determination may not be delegated to another agency.

§§ 365.171–365.999 [Reserved]

PART 366—COLLECTION OF DEBTS BY FEDERAL TAX REFUND OFFSET

Sec.

366.1 Notification to Internal Revenue Service.

366.2 Past-due legally enforceable debt.

366.3 Reasonable attempt to notify.

366.4 Notification to debtor.

366.5 Consideration of evidence.

366.6 Change in notification to Internal Revenue Service.

AUTHORITY: 45 U.S.C. 231f(b)(5); 31 U.S.C. 3720A.

SOURCE: 54 FR 397, Jan. 6, 1989, unless otherwise noted.

§366.1 Notification to Internal Revenue Service.

Upon entering into an agreement with the Internal Revenue Service and the Financial Management Service with regard to its participation in the tax refund offset program, the Board may notify the Internal Revenue Service, pursuant to the terms of such agreement, of past-due legally enforceable debts owed to the Board that are to be collected by tax refund offset. The Board's notification to the Internal Revenue Service will be as prescribed by the Internal Revenue Service in regard to information included and format, and will be made by such dates as prescribed by the Internal Revenue Service. The Board will provide the Internal Revenue Service with a toll-free or collect telephone number which the Internal Revenue Service may furnish to debtors whose refunds have been offset for use in obtaining information from the Board concerning the offset.

[54 FR 397, Jan. 6, 1989, as amended at 60 FR 66073, Dec. 21, 1995]

§366.2 Past-due legally enforceable debt.

A past-due legally enforceable debt which may be referred to the Internal Revenue Service is a debt:

(a) Which arose under any statute administered by the Board or under any contract;

(b) Which is an obligation of a debtor who is a natural person or a business;

(c) Which, except in the case of a judgment debt, has been delinquent at least three months but not more than ten years at the time the offset is made;

(d) Which is at least \$25.00;

(e) With respect to which the rights regarding reconsideration, waiver, and appeal, described in part 260 or 320 of this chapter or in other law, if applicable, have been exhausted;

(f) With respect to which either:

(1) The Board's records do not contain evidence that the debtor (or, if an individual, his or her spouse) has filed for bankruptcy under title 11 of the United States Code; or

(2) The Board can clearly establish at the time of the referral that the automatic stay under section 362 of the Bankruptcy Code has been lifted or is no longer in effect with respect to the debtor (or, if an individual, his or her spouse) and the debt was not discharged in the bankruptcy proceeding;

(g) Which cannot currently be collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a)(1);

(h) Which is not eligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2), or cannot currently be collected by administrative offset under 31 U.S.C. 3716(a) by the Board against amounts payable to the debtor by the Board;

(i) Which cannot currently be collected by administrative offset under §255.6 or §340.6 of this chapter against amounts payable to the debtor under any statute administered by the Board;

(j) With respect to which the Board has notified, or has made a reasonable attempt to notify, the debtor that the debt is past due, and that unless the debtor repays the debt within 60 days, will be referred to the Internal Revenue Service for offset against any overpayment of tax; and

(k) With respect to which the Board has given the debtor at least 60 days from the date of the notification required in paragraph (j) of this section to present evidence that all or part of