

**§ 1639.21 Waiver requests.**

The regulations in this subpart do not preclude an employee from requesting waiver of an overpayment under 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or under other statutory provisions pertaining to the particular debts being collected.

**§ 1639.22 Notice requirements before offset.**

Deductions under the authority of 5 U.S.C. 5514 may be made if, a minimum of 30 calendar days before salary offset is initiated, the Board provides the employee with written notice that he or she owes a debt to the Board. This notice of intent to offset an employee's salary will be hand-delivered or sent by certified mail to the most current address that is available to the Board. The notice provided under this section will state:

(a) That the Board has reviewed the records relating to the claim and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(b) The Board's intention to collect the debt by deducting money from the employee's current disposable pay account until the debt, and all accumulated interest, penalties, and administrative costs, is paid in full;

(c) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(d) An explanation of the Board's policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused in accordance with the Federal Claims Collection Standards, 4 CFR chapter II;

(e) The employee's right to inspect and copy all records pertaining to the debt claimed or to receive copies of those records if personal inspection is impractical;

(f) The right to a hearing conducted by an administrative law judge or other impartial hearing official (*i.e.*, a hearing official not under the supervision or control of the Executive Director), with respect to the existence and amount of the debt claimed or the repayment schedule (*i.e.*, the percentage of disposable pay to be deducted each pay period), so long as a request is

filed by the employee as prescribed in § 1639.23;

(g) If not previously provided, the opportunity (under terms agreeable to the Board) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement must be in writing and signed by both the employee and the Executive Director;

(h) The name, address, and telephone number of an officer or employee of the Board who may be contacted concerning procedures for requesting a hearing;

(i) The method and time period for requesting a hearing;

(j) That the timely filing of a request for a hearing on or before the 15th calendar day following receipt of the notice of intent will stay the commencement of collection proceedings;

(k) The name and address of the officer or employee of the Board to whom the request for a hearing should be sent;

(l) That the Board will initiate certification procedures to implement a salary offset, as appropriate, (which may not exceed 15 percent of the employee's disposable pay) not less than 30 days from the date the employee receives the notice of debt, unless the employee files a timely request for a hearing;

(m) That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not later than 60 days after the filing of the petition requesting the hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(n) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(1) Disciplinary procedures appropriate under 5 U.S.C. chapter 75, 5 CFR part 752, or any other applicable statute or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729-3733, or any other applicable statutory authority; and

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 102, or any other applicable statutory authority;