

### § 30.35

an initial review by a guarantee agency, seven days after the date of the initial determination by the guarantee agency.

(e) Notwithstanding the time frames under § 30.24(d), a debtor shall file the documents specified under that paragraph with the request for review.

(f) Notwithstanding the time frame under § 30.27(a), a debtor must agree to repay the debt under terms acceptable to the Secretary and make the first payment due under the agreement by the latest of:

(1) The seventh day after the date of decision of the Secretary if the debtor requested a review under § 30.24;

(2) The sixty-fifth day after the date of the notice under § 30.22(b), if the debtor did not request a review under § 30.24, or an opportunity to inspect and copy records of the Department under § 30.23; or

(3) The fifteenth day after the date on which the Secretary made available relevant records regarding the debt, if the debtor filed a timely request under § 30.23(a).

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3720A)

#### PROCEDURES FOR REPORTING DEBTS TO CONSUMER REPORTING AGENCIES

### § 30.35 What procedures does the Secretary follow to report debts to consumer reporting agencies?

(a)(1) The Secretary reports information regarding debts arising under a program or activity of the Department and held by the Department to consumer reporting agencies, in accordance with the procedures described in this section.

(2) The term *consumer reporting agency*, as used in this section, has the same meaning as provided in 31 U.S.C. 3701(a)(3).

(b) Before reporting information on a debt to a consumer reporting agency, the Secretary follows the procedures set forth in § 30.33.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3711, § 16023, 16029, Pub. L. 99-272)

### Subpart D [Reserved]

### 34 CFR Subtitle A (7-1-02 Edition)

### Subpart E—What Costs and Penalties Does the Secretary Impose on Delinquent Debtors?

SOURCE: 53 FR 33425, Aug. 30, 1988, unless otherwise noted.

### § 30.60 What costs does the Secretary impose on delinquent debtors?

(a) The Secretary may charge a debtor for the costs associated with the collection of a particular debt. These costs include, but are not limited to—

(1) Salaries of employees performing Federal loan servicing and debt collection activities;

(2) Telephone and mailing costs;

(3) Costs for reporting debts to credit bureaus;

(4) Costs for purchase of credit bureau reports;

(5) Costs associated with computer operations and other costs associated with the maintenance of records;

(6) Bank charges;

(7) Collection agency costs;

(8) Court costs and attorney fees; and

(9) Costs charged by other Governmental agencies.

(b) Notwithstanding any provision of State law, if the Secretary uses a collection agency to collect a debt on a contingent fee basis, the Secretary charges the debtor, and collects through the agency, an amount sufficient to recover—

(1) The entire amount of the debt; and

(2) The amount that the Secretary is required to pay the agency for its collection services.

(c)(1) The amount recovered under paragraph (b) of this section is the entire amount of the debt, multiplied by the following fraction:

$$\frac{1}{1 - cr.}$$

(2) In paragraph (c)(1) of this section, *cr* equals the commission rate the Department pays to the collection agency.

(d) If the Secretary uses more than one collection agency to collect similar debts, the commission rate (*cr*) described in paragraph (c)(2) of this section is calculated as a weighted average of the commission rates charged by

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all collection agencies collecting similar debts, computed for each fiscal year based on the formula

$$\sum_{i=1}^N \left( \frac{X_i \cdot Y_i}{Z} \right)$$

where—

(1)  $X_i$  equals the dollar amount of similar debts placed by the Department with an individual collection agency as of the end of the preceding fiscal year;

(2)  $Y_i$  equals the commission rate the Department pays to that collection agency for the collection of the similar debts;

(3)  $Z$  equals the dollar amount of similar debts placed by the Department with all collection agencies as of the end of the preceding fiscal year; and

(4)  $N$  equals the number of collection agencies with which the Secretary has placed similar debts as of the end of the preceding fiscal year.

(e) If a debtor has agreed under a repayment or settlement agreement with the Secretary to pay costs associated with the collection of a debt at a specified amount or rate, the Secretary collects those costs in accordance with the agreement.

(f) The Secretary does not impose collection costs against State or local governments under paragraphs (a) through (d) of this section.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3711(e), 3717(e)(1), 3718))

### § 30.61 What penalties does the Secretary impose on delinquent debtors?

(a) If a debtor does not make a payment on a debt, or portion of a debt, within 90 days after the date specified in the first demand for payment sent to the debtor, the Secretary imposes a penalty on the debtor.

(b)(1) The amount of the penalty imposed under paragraph (a) of this section is 6 percent per year of the amount of the delinquent debt.

(2) The penalty imposed under this section runs from the date specified in the first demand for payment to the date the debt (including the penalty) is paid.

(c) If a debtor has agreed under a repayment or settlement agreement with

the Secretary to pay a penalty for failure to pay a debt when due, or has such an agreement under a grant or contract under which the debt arose, the Secretary collects the penalty in accordance with the agreement, grant, or contract.

(d) The Secretary does not impose a penalty against State or local governments under paragraphs (a) and (b) of this section.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3711(e))

### § 30.62 When does the Secretary forego interest, administrative costs, or penalties?

(a) For a debt of any amount based on a loan, the Secretary may refrain from collecting interest or charging administrative costs or penalties to the extent that compromise of these amounts is appropriate under the standards for compromise of a debt contained in 4 CFR part 103.

(b) For a debt not based on a loan the Secretary may waive, or partially waive, the charging of interest, or the collection of administrative costs or penalties, if—

(1) Compromise of these amounts is appropriate under the standards for compromise of a debt contained in 4 CFR part 103; or

(2) The Secretary determines that the charging of interest or the collection of administrative costs or penalties is—

(i) Against equity and good conscience; or

(ii) Not in the best interests of the United States.

(c) The Secretary may exercise waiver under paragraph (b)(1) of this section without regard to the amount of the debt.

(d) The Secretary may exercise waiver under paragraph (b)(2) of this section if—

(1) The Secretary has accepted an installment plan under 4 CFR 102.11;

(2) There is no indication of fault or lack of good faith on the part of the debtor; and

(3) The amount of interest, administrative costs, and penalties is such a large portion of the installments that the debt may never be repaid if that amount is collected.