

**§ 1.987**

**38 CFR Ch. I (7-1-02 Edition)**

**§ 1.987 Review by the hearing official or administrative law judge.**

(a) The hearing official or administrative law judge shall uphold VA's determination of the existence and amount of the debt unless determined to be erroneous by a preponderance of the evidence.

(b) The hearing official or administrative law judge shall uphold VA's offset schedule unless the schedule would result in extreme hardship to the employee.

(Authority: 5 U.S.C. 5514)

[52 FR 1905, Jan. 16, 1987; 52 FR 23824, June 25, 1987]

**§ 1.988 Written decision following a hearing requested under § 1.984.**

(a) The hearing official or administrative law judge must issue a written decision not later than 60 days after the employee files a request for the hearing.

(b) Written decisions provided after a hearing requested under § 1.984 will include:

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

(2) The hearing official or administrative law judge's analysis, findings and conclusions concerning as applicable:

(i) The employee's or VA's grounds;

(ii) The amount and validity of the alleged debt; and

(iii) The repayment schedule.

(c) The decision in a case where a paper hearing was provided shall be based upon a review of the written record. The decision in a case where an oral hearing was provided shall be based upon the hearing and the written record.

(Authority: 5 U.S.C. 5514)

**§ 1.989 Review of VA records related to the debt.**

(a) *Notification by employee.* An employee who intends to inspect or copy VA records related to the debt as permitted by a notice provided under § 1.983 must send a letter to the office which sent the notice of the debt stating his or her intention. The letter must be received by that office within

20 calendar days of the date of the notice.

(b) *VA response.* In response to timely notice submitted by the debtor as described in paragraph (a) of this section, VA will notify the employee of the location and time when the employee may inspect and copy records related to the debt.

(Authority: 5 U.S.C. 5514)

**§ 1.990 Written agreement to repay debt as alternative to salary offset.**

(a) *Notification by employee.* The employee may propose, in response to a notice under § 1.983, a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to do this must submit a proposed written agreement to repay the debt which is received by the office which sent the notice of the debt within 20 calendar days of the date of the notice.

(b) *VA response.* In response to timely notice by the debtor as described in paragraph (a) of this section, VA will notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within VA's discretion to accept a repayment agreement instead of proceeding by offset. In making this determination, VA will balance its interest in collecting the debt against the hardship to the employee. VA will accept a repayment agreement instead of offset only if the employee is able to establish that offset would result in extreme hardship.

(Authority: 5 U.S.C. 5514)

**§ 1.991 Procedures for salary offset: when deductions may begin.**

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the notice to collect from the employee's current pay as modified by a written decision issued under §§ 1.982, 19.1 through 19.200 or § 1.988 or by written agreement between the employee and the VA under § 1.990.

(b) If the employee filed a request for a hearing as provided by § 1.984 before the expiration of the period provided for in that section, deductions will not begin until after the hearing official or