

(2) We provide an in-person oral hearing with regard to administrative debts only in Washington D.C.

(3) We provide an in-person oral hearing with regard to debts based on student loan or grant obligations only at our regional service centers in Atlanta, Chicago, or San Francisco.

(4) You must bear all travel expenses you incur in connection with an in-person hearing.

(5) We bear the cost of any telephone calls we place in order to conduct an oral hearing by telephone.

(d)(1) To arrange the time and location of the oral hearing, we ordinarily attempt to contact you first by telephone call to the number you provided to us.

(2) If we are unable to contact you by telephone, we leave a message directing you to contact us within 5 business days to arrange the time and place of the hearing.

(3) If we can neither contact you directly nor leave a message with you by telephone—

(i) We notify you in writing to contact us to arrange the time and place of the hearing; or

(ii) We select a time and place for the hearing, and notify you in writing of the time and place set for the hearing.

(e) We consider you to have withdrawn the request for an oral hearing if—

(1) Within 15 days of the date of a written notice to contact us, we receive no response to that notice; or

(2) Within five business days of the date of a telephone message to contact us, we receive no response to that message.

(Authority: 31 U.S.C. 3720D)

§ 34.10 Conditions for a paper hearing.

We provide a paper hearing—

(a) If you request a paper hearing;

(b) If you requested an oral hearing, but we determine under § 34.9(e) that you have withdrawn that request;

(c) If you fail to appear for a scheduled oral hearing, as provided in § 34.15; or

(d) If we deny a request for an oral hearing because we conclude that, by a review of the written record, we can resolve the issues raised by your objections.

(Authority: 31 U.S.C. 3720D)

§ 34.11 Timely request for a hearing.

(a) A hearing request is timely if—

(1) You mail the request to the office designated in the garnishment notice and the request is postmarked not later than the 30th day following the date of the notice; or

(2) The designated office receives the request not later than the 30th day following the date of the garnishment notice.

(b) If we receive a timely written request from you for a hearing, we will not issue a garnishment order before we—

(1) Provide the requested hearing; and

(2) Issue a written decision on the objections you raised.

(c) If your written request for a hearing is not timely—

(1) We provide you a hearing; and

(2) We do not delay issuance of a garnishment order unless—

(i) We determine from credible representations in the request that the delay in filing the request for hearing was caused by factors over which you had no control; or

(ii) We have other good reason to delay issuing a garnishment order.

(d) If we do not complete a hearing within 60 days of an untimely request, we suspend any garnishment order until we have issued a decision.

(Authority: 31 U.S.C. 3720D)

§ 34.12 Request for reconsideration.

(a) If you have received a decision on an objection to garnishment you may file a request for reconsideration of that decision.

(b) We do not suspend garnishment merely because you have filed a request for reconsideration.

(c) We consider your request for reconsideration if we determine that—

(1) You base your request on grounds of financial hardship, and your financial circumstances, as shown by evidence submitted with the request, have materially changed since we issued the decision so that we should reduce the amount to be garnished under the order; or

(2)(i) You submitted with the request evidence that you did not previously submit; and

(ii) This evidence demonstrates that we should reconsider your objection to the existence, amount, or enforceability of the debt.

(d)(1) If we agree to reconsider the decision, we notify you.

(2)(i) We may reconsider based on the request and supporting evidence you have presented with the request; or

(ii) We may offer you an opportunity for a hearing to present evidence.

(Authority: 31 U.S.C. 3720D)

§ 34.13 Conduct of a hearing.

(a)(1) A hearing official conducts any hearing under this part.

(2) The hearing official may be any qualified employee of the Department

whom the Department designates to conduct the hearing.

(b)(1) The hearing official conducts any hearing as an informal proceeding.

(2) A witness in an oral hearing must testify under oath or affirmation.

(3) The hearing official maintains a summary record of any hearing.

(c) Before the hearing official considers evidence we obtain that was not included in the debt records available for inspection when we sent notice of proposed garnishment, we notify you that additional evidence has become available, may be considered by the hearing official, and is available for inspection or copying.

(d) The hearing official considers any objection you raise and evidence you submit—

(1) In or with the request for a hearing;

(2) During an oral hearing;

(3) By the date that we consider, under § 34.9(e), that a request for an oral hearing has been withdrawn; or

(4) Within a period we set, ordinarily not to exceed seven business days, after—

(i) We provide you access to our records regarding the debt, if you requested access to records within 20 days after the date of the notice under § 34.4;

(ii) We notify you that we have obtained and intend to consider additional evidence;

(iii) You request an extension of time in order to submit specific relevant evidence that you identify to us in the request; or

(iv) We notify you that we deny your request for an oral hearing.

(Authority: 31 U.S.C. 3720D)

§ 34.14 Burden of proof.

(a)(1) We have the burden of proving the existence and amount of a debt.

(2) We meet this burden by including in the record and making available to the debtor on request records that show that—

(i) The debt exists in the amount stated in the garnishment notice; and

(ii) The debt is currently delinquent.

(b) If you dispute the existence or amount of the debt, you must prove by a preponderance of the credible evidence that—

(1) No debt exists;

(2) The amount we claim to be owed on the debt is incorrect, or

(3) You are not delinquent with respect to the debt.

(c)(1) If you object that the proposed garnishment rate would cause financial hardship, you bear the burden of proving by a preponderance of the credible evidence that withholding the