Office of the Secretary, Education

(2) The process for seeking review of
the award has been completed.
(Authority: 5 U.S.C. 504(c)(1) and (d))

§ 30.1 What administrative actions
may the Secretary take to collect
a debt?

(a) The Secretary may take one or
more of the following actions to collect
a debt owed to the United States:
(1) Collect the debt under the proce-
dures authorized in the regulations
in this part.
(2) Refer the debt to the Department
of Justice for compromise, collec-
tion, or litigation.
(3) Take any other action authorized
by law.

(b) In taking any of the actions listed
in paragraph (a) of this section, the
Secretary complies with the require-
mements of the Federal Claims Collection

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

30.60 What costs does the Secretary impose
on delinquent debtors?
30.61 What penalties does the Secretary impose
on delinquent debtors?
30.62 When does the Secretary forego inter-
est, administrative costs, or penalties?

Subpart F—What Requirements Apply to
the Compromise of a Debt or the Sus-
pension or Termination of Collection
Action?

30.70 How does the Secretary exercise dis-
cretion to compromise a debt or to sus-
pend or terminate collection of a debt?

Subpart G [Reserved]
§ 30.2 Standards (FCCS) at 4 CFR parts 101-105 that are not inconsistent with the requirements of this part.

(c) The Secretary may—

(1) Collect the debt under the offset procedures in subpart C of this part;

(2) Report a debt to a consumer reporting agency under the procedures in subpart C of this part;

(3) Charge interest on the debt as provided in the FCCS;

(4) Impose upon a debtor a charge based on the costs of collection as determined under subpart E of this part;

(5) Impose upon a debtor a penalty for failure to pay a debt when due under subpart E of this part;

(6) Compromise a debt, or suspend or terminate collection of a debt, under subpart F of this part;

(7) Take any other actions under the procedures of the FCCS in order to protect the United States Government’s interests; or

(8) Use any combination of the procedures listed in this paragraph (c) as may be appropriate in a particular case.

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

[53 FR 33425, Aug. 30, 1988]
§ 30.22 What notice does the debtor receive before the commencement of offset?

(a)(1) Except as provided in §§ 30.28 and 30.29, the Secretary provides a debtor with written notice of the Secretary’s intent to offset before initiating the offset.

(a)(2) The Secretary mails the notice to the debtor at the current address of the debtor, as determined by the Secretary from information regarding the debt maintained by the Department.

(b) The written notice informs the debtor regarding:

(1) The nature and amount of the debt;

(2) The Secretary’s intent to collect the debt by offset;

(3) The debtor’s opportunity to:
   (i) Inspect and copy Department records pertaining to the debt;
   (ii) Obtain a review within the Department of the existence or amount of the debt; and
   (iii) Enter into a written agreement with the Secretary to repay the debt;

(4) The date by which the debtor must request an opportunity set forth under paragraph (b)(3) of this section; and

(5) The Secretary’s decision, in appropriate cases, to switch the debtor from advance funding to a reimbursement payment system.

(c)(1) In determining whether a debtor has requested an opportunity set forth under paragraph (b)(3) of this section in a timely manner, the Secretary relies on:
   (i) A legibly dated U.S. Postal Service postmark for the debtor’s request; or
   (ii) A legibly stamped U.S. Postal service mail receipt for debtor’s request.

(c)(2) The Secretary does not rely on either of the following as proof of mailing:
   (i) A private metered postmark.
   (ii) A mail receipt that is not dated by the U.S. Postal Service.

NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method for proof of mailing, a debtor should check with its local post office.

(d) If a debtor previously has been notified of the Secretary’s intent to offset or offered an opportunity to take any...
§ 30.23 How must a debtor request an opportunity to inspect and copy records relating to a debt?

(a) If a debtor wants to inspect and copy Department documents relating to the debt, the debtor must:

(1) File a written request to inspect and copy the documents within 20 days after the date of the notice provided under §30.22; and

(2) File the request at the address specified in that notice.

(b) A request filed under paragraph (a) of this section must contain:

(1) All information provided to the debtor in the notice under §30.22 or §30.33(b) that identifies the debtor and the debt, including the debtor’s Social Security number and the program under which the debt arose, together with any corrections of that identifying information; and

(2) A reasonably specific identification of the records the debtor wishes to have available for inspection and copying.

(c) The Secretary may decline to provide an opportunity to inspect and copy records if the debtor fails to request the inspection and copying in accordance with this section.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 1226a–1, 31 U.S.C. 3716(b))

§ 30.24 What opportunity does the debtor receive to obtain a review of the existence or amount of a debt?

(a) If a debtor wants a review within the Department of the issues identified in the notice under §30.22(b)(3)(ii) or §30.33(b)(3)(ii), the debtor must:

(1) File a request for review within 20 days after the date of the notice provided under §30.22; and

(2) File a request at the address specified in that notice.

(b) A request filed under paragraph (a) of this section must contain:

(1) All information provided to the debtor in the notice under §30.22 or §30.33(b) that identifies the debtor and the particular debt, including the debtor’s Social Security number and the program under which the debt arose, together with any corrections of that identifying information; and

(2) An explanation of the reasons the debtor believes that the notice the debtor received under §30.22 or §30.33(b) inaccurately states any facts or conclusions relating to the debt.

(c) The Secretary may decline to provide an opportunity for review of a debt if the debtor fails to request the review in accordance with this section.

(d)(1) The debtor shall:

(i) File copies of any documents relating to the issues identified in the notice under §30.22 or §30.33(b) that the debtor wishes the Secretary to consider in the review;

(ii) File the documents at the address specified in that notice, and

(iii) File the documents no later than:

(A) 20 days after the date of the notice provided under §30.22; or

(B) If the debtor has requested an opportunity to inspect and copy records under §30.23 within the time period specified in that section, 15 days after the date on which the Secretary makes available to the debtor the relevant, requested records.

(2) The Secretary may decline to consider any reasons or documents that the debtor fails to provide in accordance with paragraphs (b) and (d) of this section.

(e) If the Secretary bases the review on only the documentary evidence, the Secretary:

(1) Reviews the documents submitted by the debtor and other relevant evidence; and

(2) Notifies the debtor in writing of the Secretary’s decision regarding the issues identified in the notice under §30.22(b)(3)(ii) or §30.33(b)(3)(ii) and, if...
appropriate, the question of waiver of the debt.

(Approved by the Office of Management and Budget under control number 1880-0515)

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))


§ 30.25 How may a debtor obtain an oral hearing?

(a) If a debtor wants the Secretary to conduct the review requested under § 30.24 as an oral hearing, the debtor must file a written request for an oral hearing together with the request for review filed under § 30.24(a).

(b) A request filed under paragraph (a) of this section must contain the following in addition to the information filed under § 30.24(b):

(1) An explanation of reason(s) why the debtor believes the Secretary cannot resolve the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) through a review of the documentary evidence.

(2) An identification of:

(i) The individuals that the debtor wishes to have testify at the oral hearing;

(ii) The specific issues identified in the notice regarding which each individual is prepared to testify; and

(iii) The reasons why each individual’s testimony is necessary to resolve the issue.

(c) The Secretary grants a debtor’s request for an oral hearing regarding the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) only if:

(1)(i) A statute authorizes or requires the Secretary to consider waiver of the indebtedness involved;

(ii) The debtor files a request for waiver of the indebtedness with the request for review filed under paragraph (a)(1) of this section; and

(iii) The question of waiver of the indebtedness turns on an issue of credibility or veracity; or

(2) The Secretary determines that the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) cannot be resolved by review of only the documentary evidence.

(d) Notwithstanding paragraph (b) of this section, the Secretary may deny oral hearings for a class of similar debts if:

(1) The issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) for which an oral hearing was requested, or the issue of waiver, rarely involve issues of credibility or veracity; and

(2) The Secretary determines that review of the documentary evidence is ordinarily an adequate means to correct mistakes.

(e) The Secretary may decline to consider any reasons that the debtor fails to provide in accordance with paragraph (b)(1) of this section.

(Approved by the Office of Management and Budget under control number 1880-0515)

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))


§ 30.26 What special rules apply to an oral hearing?

(a) The oral hearing under § 30.25 is not a formal evidentiary hearing subject to 5 U.S.C. 554, unless required by law.

(b) If the Secretary grants an oral hearing, the Secretary notifies the debtor in writing of:

(1) The time and place for the hearing;

(2) The debtor’s right to representation; and

(3) The debtor’s right to present and cross examine witnesses.

(c) If the Secretary grants an oral hearing, the Secretary designates an official to:

(1) Govern the conduct of the hearing;

(2) Take all necessary action to avoid unreasonable delay in the proceedings;

(3) Review the evidence presented at the hearing, the documents submitted by the debtor, and other relevant evidence; and

(4) After considering the evidence, notify the debtor in writing of the official’s decision regarding the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) and, if appropriate, the question of waiver of the debt.
§ 30.27 When does the Secretary enter into a repayment agreement rather than offset?

(a) If a debtor wants an opportunity to enter into a written agreement to repay a debt on terms acceptable to the Secretary, the debtor must:

(1) File a request to enter into such agreement within 20 days after the date of the notice provided under § 30.22; and

(2) File the request at the address specified in the notice.

(b) A request filed under paragraph (a) of this section must contain all information provided to the debtor in the notice under § 30.22 or § 30.33(b) that identifies the debtor and the debt, including the debtor’s Social Security number and the program under which the debt arose, together with any corrections of that identifying information.

(c) If the Secretary receives a request filed in accordance with this section, the Secretary may enter into a written agreement requiring repayment in accordance with 4 CFR 102.11, instead of offsetting the debt.

(d) In deciding whether to enter into the agreement, the Secretary may consider:

(1) The Government’s interest in collecting the debt; and

(2) Fairness to the debtor.

(e) If a debtor that enters into a repayment agreement with the Secretary under this section waives any right to further review by the Secretary of the issues relating to the original debt identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii).

§ 30.28 When may the Secretary offset before completing the procedures under §§ 30.22–30.27?

(a) The Secretary may offset before completing the procedures otherwise required by §§ 30.22–30.27 if:

(1) Failure to offset would substantially prejudice the Government’s ability to collect the debt; and

(2) The amount of time remaining before the payment by the United States which is subject to offset does not reasonably permit completion of the procedures under §§ 30.22–30.27.

(b) If the Secretary offsets under paragraph (a) of this section, the Secretary:

(1) Promptly completes the procedures under §§ 30.22–30.27 after initiating the offset; and

(2) Refunds any amounts recovered under the offset that are later found not to be owed to the United States.

§ 30.29 What procedures apply when the Secretary offsets to collect a debt owed another agency?

The Secretary may initiate offset to collect a debt owed another Federal agency if:

(a) An official of that agency certifies in writing:

(1) That the debtor owes a debt to the United States;

(2) The amount of the debt; and

(3) That the agency has complied with 4 CFR 102.3; and

(b) For offsets under 31 U.S.C. 3716, the Secretary makes an independent determination that the offset meets the standards under § 30.22(a)(2).

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))
§ 30.30 What procedures apply when the Secretary requests another agency to offset a debt owed under a program or activity of the Department?

(a) The Secretary may request another Federal agency to offset a debt owed under a program or activity of the Department if the Secretary certifies in writing to the other Federal agency:
   (1) That the debtor owes a debt to the United States;
   (2) The amount of the debt; and
   (3) That the Secretary has complied with 4 CFR 102.3.

(b) Before providing the certification required under paragraph (a) of this section, the Secretary complies with the procedures in §§ 30.20–30.27.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 1226a–1, 31 U.S.C. 3716(b))

§ 30.31 How does the Secretary apply funds recovered by offset if multiple debts are involved?

If the Secretary collects more than one debt of a debtor by administrative offset, the Secretary applies the recovered funds to satisfy those debts based on the Secretary’s determination of the best interests of the United States, determined by the facts and circumstances of the particular case.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 1226a–1, 31 U.S.C. 3716(b))

IRS TAX REFUND OFFSET PROCEDURES

§ 30.33 What procedures does the Secretary follow for IRS tax refund offsets?

(a) If a named person owes a debt under a program or activity of the Department, the Secretary may refer the debt for offset to the Secretary of the Treasury after complying with the procedures in §§ 30.20–30.28, as modified by this section.

(b) Notwithstanding § 30.22(b), the notice sent to a debtor under § 30.22 informs the debtor that:
   (1) The debt is past due;
   (2) The Secretary intends to refer the debt for offset to the Secretary of Treasury;
   (3) The debtor has an opportunity to:
      (i) Inspect and copy Department records regarding the existence, amount, enforceability, or past-due status of the debt;
      (ii) Obtain a review within the Department of the existence, amount, enforceability, or past-due status of the debt;
      (iii) Enter into a written agreement with the Secretary to repay the debt; and
   (4) The debtor must take an action set forth under paragraph (b)(3) by a date specified in the notice.

(c) Notwithstanding § 30.23(a), if a debtor wants to inspect and copy Department records regarding the existence, amount, enforceability, or past-due status of the debt, the debtor must:
   (1) File a written request to inspect and copy the records within 20 days after the date of the notice provided under § 30.22; and
   (2) File the request at the address specified in that notice.

(d) Notwithstanding the time frame under § 30.24(a), if a debtor wants a review under that paragraph, the debtor must file a request for review at the address specified in the notice by the later of:
   (1) Sixty-five days after the date of the notice provided under § 30.22;
   (2) If the debtor has requested an opportunity to inspect and copy records within the time period specified in paragraph (c) of this section, 15 days after the date on which the Secretary makes available to the debtor the relevant, requested records; or
   (3) If the debtor has requested a review within the appropriate time frame under paragraph (d) (1) or (2) of this section and the Secretary has provided 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;
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(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–3a(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.


Subpart D [Reserved]

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 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;
§ 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.

(e)(1) The Secretary does not charge interest on any portion of a debt, other than a loan, owed by a person subject to 31 U.S.C. 3717 if the debt is paid within 30 days after the date of the first demand for payment.

(e)(2) The Secretary may extend the period under paragraph (e)(1) of this section if the Secretary determines that the extension is appropriate.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 1226a–1, 31 U.S.C. 3711(e))
§ 30.70 How does the Secretary exercise discretion to compromise a debt or to suspend or terminate collection of a debt?

(a) The Secretary uses the standards in the FCCS, 4 CFR part 103, to determine whether compromise of a debt is appropriate if—

(1) The debt must be referred to the Department of Justice under this section; or

(2) The amount of the debt is less than or equal to $20,000 and the Secretary does not follow the procedures in paragraph (e) of this section.

(b) The Secretary refers a debt to the Department of Justice to decide whether to compromise a debt if—

(1) The debt was incurred under a program or activity subject to section 452(f) of the General Education Provisions Act and the initial determination of the debt was more than $50,000; or

(2) The debt was incurred under a program or activity not subject to section 452(f) of the General Education Provisions Act and the amount of the debt is more than $20,000.

(c) The Secretary may compromise the debt under the procedures in paragraph (e) of this section if—

(1) The debt was incurred under a program or activity subject to section 452(f) of the General Education Provisions Act; and

(2) The initial determination of the debt was less than or equal to $50,000.

(d) The Secretary may compromise a debt without following the procedure in paragraph (e) of this section if the amount of the debt is less than or equal to $20,000.

(e) The Secretary may compromise the debt pursuant to paragraph (c) of this section if—

(1) The Secretary determines that—

(i) Collection of any or all of the debt would not be practical or in the public interest; and

(ii) The practice that resulted in the debt has been corrected and will not recur;

(2) At least 45 days before compromising the debt, the Secretary publishes a notice in the Federal Register stating—

(i) The Secretary’s intent to compromise the debt; and

(ii) That interested persons may comment on the proposed compromise; and

(3) The Secretary considers any comments received in response to the Federal Register notice before finally compromising the debt.

(f)(1) The Secretary uses the standards in the FCCS, 4 CFR part 104, to determine whether suspension or termination of collection action is appropriate.

(2) The Secretary—

(i) Refers the debt to the Department of Justice to decide whether to suspend or terminate collection action if the amount of the debt at the time of the referral is more than $20,000; or

(ii) May decide to suspend or terminate collection action if the amount of the debt at the time of the Secretary’s decision is less than or equal to $20,000.

(g) In determining the amount of a debt under paragraphs (a) through (f) of this section, the Secretary excludes interest, penalties, and administrative costs.

(h) Notwithstanding paragraphs (b) through (f) of this section, the Secretary may compromise a debt, or suspend or terminate collection of a debt, in any amount if the debt arises under the Guaranteed Student Loan Program authorized under title IV, part B, of the Higher Education Act of 1965, as amended, or the Perkins Loan Program authorized under title IV, part E, of the Higher Education Act of 1965, as amended.

(i) The Secretary refers a debt to the General Accounting Office (GAO) for review and approval before referring the debt to the Department of Justice for litigation if—

(1) The debt arose from an audit exception taken by GAO to a payment made by the Department; and

(2) The GAO has not granted an exception from the GAO referral requirement.

(j) Nothing in this section precludes—

(1) A contracting officer from exercising his authority under applicable
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§ 31.1 Scope.

(a) General. The Secretary establishes the standards and procedures in this part that apply to the offset from disposable pay of a current or former Federal employee or from amounts payable from the Federal retirement account of a former Federal employee to recover a debt owed the United States under a program administered by the Secretary of Education.

(b) Exclusions. This part does not apply to—

(1) Offsets under 34 CFR part 32 to recover for overpayments of pay or allowances to an employee of the Department;

(2) Offsets under 34 CFR part 30; or

(3) Offsets under section 124 of Pub. L. 97-276 to collect debts owed to the United States on judgments.

(c) Reports to consumer reporting agency. The Secretary may report a debt to a consumer reporting agency after notifying the employee, in accordance with 34 CFR 30.35, of the intention to report the debt, and after providing the employee an opportunity to inspect documents, receive a hearing, and enter into a repayment agreement under this part.


§ 31.2 Definitions.

As used in this part:

Agency means—

1. An Executive agency as defined in 5 U.S.C. 105, including the U.S. Postal Service and the U.S. Postal Rate Commission;

2. A military department as defined in 5 U.S.C. 102;

3. An agency or court in the judicial branch, including a court as defined in 28 U.S.C. 610, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation;

4. An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

5. Any other independent establishment that is an entity of the Federal Government.

Days refer to calendar days.

Department means the Education Department.

Disposable pay means the amount that remains from an employee’s pay after required deductions for Federal, State, and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs; premiums for basic life insurance and health insurance benefits; and other deductions that are required by law to be withheld.

Employee means a current or former employee of an agency. In the case of an offset proposed to collect a debt owed by a deceased employee, the references in this part to the employee shall be read to refer to the payee of benefits from the Federal retirement account or other pay of the employee.

Federal retirement account means an account of an employee under the Civil Service Retirement System or the Federal Employee Retirement System.