

Office of the Secretary, Education

§ 33.46

or settles any penalty or assessment, determined by the ALJ in any initial decision.

(Authority: 31 U.S.C. 3803(i))

(k) The Department head promptly serves each party to the appeal with a copy of the decision of the Department head and a statement describing the right of any person determined to be liable for a penalty or assessment to seek judicial review.

(Authority: 31 U.S.C. 3803(i)(2))

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805, after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the Department head serves the defendant with a copy of the Department head's decision, a determination that a defendant is liable under §33.3 is final and is not subject to judicial review.

(Authority: 31 U.S.C. 3805(a)(2))

§ 33.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the Department head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the Department head stays the process immediately. The Department head orders the process resumed only upon receipt of the written authorization of the Attorney General.

(Authority: 31 U.S.C. 3803(b)(3))

§ 33.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the Department head.

(b) No administrative stay is available following a final decision of the Department head.

(Authority: 31 U.S.C. 3809)

§ 33.42 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an

appropriate United States District Court of a final decision of the Department head imposing penalties or assessments under this part and specifies the procedures for the review.

(Authority: 31 U.S.C. 3805)

§ 33.43 Collection of civil penalties and assessments.

Section 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for those actions.

(Authority: 31 U.S.C. 3808(b))

§ 33.44 Right to administrative offset.

The amount of any penalty or assessment that has become final, or for which a judgment has been entered under §33.42 or §33.43, or any amount agreed upon in a compromise or settlement under §33.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be under this section against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

(Authority: 31 U.S.C. 3806)

§ 33.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part are deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

(Authority: 31 U.S.C. 3807(b))

§ 33.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(Authority: 31 U.S.C. 3809)

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(Authority: 31 U.S.C. 3803(j))

(c) The Department head has exclusive authority to compromise or settle