

decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ 794.161–794.169 [Reserved]

§ 794.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Director, Office of Administration, shall be responsible for coordinating implementation of this section. Complaints may be sent to NCUA, 1776 G Street NW., Room 7261, Washington, DC 20456.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or

facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

- (1) Findings of fact and conclusions of law;
- (2) A description of a remedy for each violation found; and
- (3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § 794.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

[51 FR 22889, 22896, June 23, 1986, as amended at 51 FR 22889, June 23, 1986; 59 FR 36042, July 15, 1994]

§§ 794.171–794.999 [Reserved]

**PART 796—POST-EMPLOYMENT RESTRICTIONS FOR CERTAIN NCUA EXAMINERS**

Sec.

796.1 What is the purpose and scope of this part?

## National Credit Union Administration

## § 796.5

796.2 Who is considered a senior examiner of the NCUA?

796.3 What special post-employment restrictions apply to senior examiners?

796.4 When do these special restrictions become effective and may they be waived?

796.5 What are the penalties for violating these special post-employment restrictions?

796.6 What other definitions and rules of construction apply for purposes of this part?

AUTHORITY: 12 U.S.C. 1786(w).

SOURCE: 70 FR 72703, Dec. 7, 2005, unless otherwise noted.

### § 796.1 What is the purpose and scope of this part?

This part identifies those National Credit Union Administration (NCUA) employees who are subject to the special, post-employment restrictions in section 1786(w) of the Act and implements those restrictions as they apply to NCUA employees.

### § 796.2 Who is considered a senior examiner of the NCUA?

For purposes of this part, an NCUA employee is considered to be the “senior examiner” for a federally insured credit union if the employee—

(a) Has been authorized by NCUA to conduct examinations or inspections of federally insured credit unions on behalf of NCUA;

(b) Has continuing, broad, and lead responsibility for examining or inspecting that federally insured credit union;

(c) Routinely interacts with officers or employees of that federally insured credit union; and

(d) Devotes a substantial portion of his or her time to supervising or examining that federally insured credit union.

### § 796.3 What special post-employment restrictions apply to senior examiners?

(a) *Senior examiners of federally insured credit unions.* An officer or employee of the NCUA who performs work (onsite or offsite) as the senior examiner of a federally insured credit union for a total of two or more months during the last 12 months of individual’s employment with NCUA may not, within one year after leaving NCUA

employment, knowingly accept compensation as an employee, officer, director, or consultant from that credit union.

(b) *Example.* An NCUA resident corporate credit union examiner assigned to work at a federally insured, corporate credit union for two or more months during the last 12 months of that individual’s employment with NCUA will be subject to the one-year prohibition of this section.

### § 796.4 When do these special restrictions become effective and may they be waived?

The post-employment restrictions in section 1786(w) of the Act and § 796.3 do not apply to any current or former NCUA employee, if:

(a) The individual ceased to be an NCUA employee on or before December 17, 2005; or

(b) The Chairman of the NCUA Board certifies in writing and on a case-by-case basis that granting the senior examiner a waiver of the restrictions would not affect the integrity of the NCUA’s supervisory program.

### § 796.5 What are the penalties for violating these special post-employment restrictions?

(a) *Penalties under section 1786(w)(5) of the Act.* An NCUA senior examiner who violates the post-employment restrictions set forth in § 796.3 can be:

(1) Removed from participating in the affairs of the relevant credit union and prohibited from participating in the affairs of any federally insured credit union for a period of up to five years; and, alternatively, or in addition,

(2) Assessed a civil monetary penalty up to the amount specified in § 747.1001 of this chapter.

(b) *Other penalties.* The penalties in paragraph (a) of this section are not exclusive, and a senior examiner who violates the restrictions in § 796.3 also may be subject to other administrative, civil, and criminal remedies and penalties as provided in law.

[70 FR 72703, Dec. 7, 2005, as amended at 80 FR 57289, Sept. 23, 2015]

**§ 796.6**

**§ 796.6 What other definitions and rules of construction apply for purposes of this part?**

For purposes of this part, a person shall be deemed to act as a “consultant” for a federally insured credit union or other company only if the person works directly on matters for, or on behalf of, such credit union.

**PART 797—PROCEDURES FOR DEBT COLLECTION**

**Subpart A—Scope, Purpose, Definitions and Delegation of Authority**

Sec.

- 797.1 Scope.
- 797.2 Purpose.
- 797.3 Definitions.
- 797.4 Delegation of authority.

**Subpart B—Administrative Offset**

- 797.5 Authority and scope.
- 797.6 Administrative offset prior to completion of procedures.
- 797.7 Procedures.
- 797.8 Right to agency review.
- 797.9 Review procedures.
- 797.10 Special review.
- 797.11 Interest, administrative costs, and penalties.
- 797.12 Refunds.
- 797.13 Requests for administrative offset where NCUA is the creditor agency.
- 797.14 Requests for administrative offset where NCUA is the paying agency.
- 797.15 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.
- 797.16 Stay of offset.

**Subpart C—Salary Offset**

- 797.17 Authority and scope.
- 797.18 Notice requirements where NCUA is the creditor agency.
- 797.19 Review of agency records related to the debt.
- 797.20 Procedures to request a hearing.
- 797.21 Hearing procedures.
- 797.22 Voluntary repayment agreement.
- 797.23 Certification where NCUA is the creditor agency.
- 797.24 Certification where NCUA is the paying agency.
- 797.25 Recovery from final check or other payments due a separated employee.

AUTHORITY: 12 U.S.C. 1752a; 5 U.S.C. 5514; 31 U.S.C. 3711, 3716, 3720A, 3720D.

SOURCE: 73 FR 11341, Mar. 3, 2008, unless otherwise noted.

**12 CFR Ch. VII (1–1–25 Edition)**

**Subpart A—Scope, Purpose, Definitions and Delegation of Authority**

**§ 797.1 Scope.**

This part establishes NCUA procedures for the collection of certain debts owed to the United States.

(a) This part applies to collections by NCUA from:

- (1) Federal employees who are indebted to NCUA;
- (2) Employees of NCUA who are indebted to other agencies or NCUA; and
- (3) Former federal employees who are indebted to NCUA.

(b) This part does not apply:

- (1) To debts or claims arising under the Internal Revenue Code of 1986 (Title 26, U.S. Code), the Social Security Act (42 U.S.C. 301 *et seq.*), or the tariff laws of the United States;
- (2) To a situation to which the Contract Disputes Act (41 U.S.C. 601 *et seq.*) applies;
- (3) In any case where collection of a debt is explicitly provided for or prohibited by another statute;
- (4) To debts owed to or payments made by NCUA in connection with NCUA’s conservatorship, liquidation, supervision, enforcement, or insurance responsibilities pursuant to 12 U.S.C. 1786 and 1787, nor does it limit or affect NCUA’s authority with respect to debts and/or claims pursuant to 12 U.S.C. 1752(a) and 1766.

(c) Nothing in this part precludes the compromise, suspension, or termination of collection actions, where appropriate, under standards implementing the Debt Collection Improvement Act (DCIA) (31 U.S.C. 3711 *et seq.*), the Federal Claims Collection Standards (FCCS) (31 CFR parts 900 through 904); or any other applicable law.

**§ 797.2 Purpose.**

(a) The purpose of this part is to implement federal statutes and regulatory standards authorizing NCUA to collect debts owed to the United States. This part is consistent with the following federal statutes and regulations:

- (1) DCIA at 31 U.S.C. 3711 (collection and compromise of claims); section 3716 (administrative offset), and section 3717 (interest and penalty on claims).