

Piedmont Virginia Community

Section VII – Fiscal Policy

VII – 1.4 Contested Debt Set-Off Claims

Policy #:	VII – 1.4
Effective:	March 8, 2023 (<i>New</i>)
Revised:	March 8, 2023
Responsible Dept:	Office of the Vice President of Finance & Administrative Services

1. Purpose

This policy aims to establish a hearing process for disputed debt setoff claims.

2. Policy Statement

Any debtor who contests Piedmont Virginia Community College (“the College”) intent to apply the debt setoff process is entitled to a hearing to resolve the dispute. To resolve disputed debt setoff claims efficiently and fairly, the following process is established.

3. Procedures for Implementation

A. Debtor Notification

Within ten (10) calendar days of being notified that a debtor is due a tax refund, Piedmont Virginia Community College (“the College”), as a claimant agency, will send written notification to the debtor of its intent to direct the Department of Taxation (“the Department”) to apply the debtor’s tax refund against the debt due and owing to the College. The debtor has thirty (30) calendar days from the date of the agency’s notification letter to contest the claim and request a hearing in writing. If the debtor does not request a hearing in writing within thirty (30) calendar days, the debtor waives the opportunity to contest the claim.

B. Contested Claims

1. If the College receives a written request from the debtor for a hearing, the College will grant a hearing according to these procedures to determine whether the claim is valid.
2. Upon receipt of the hearing request, the College’s debt setoff coordinator will notify the Department that the debtor has filed a notice of intent to contest the claim’s validity. Pending the final determination of the debt’s validity, no action shall be taken in furtherance of debt collection through the setoff procedure.
3. The Vice President for Finance and Administration (“Vice President”) appoints a hearing officer who has not been involved with the actions that created the debt setoff claim. The hearing officer shall be responsible for conducting a fair and impartial hearing.

4. A contest hearing is arranged with the College's Vice President. The Vice President/or debt setoff coordinator notifies the debtor of the time, date, and place at the College where the hearing will take place, as well as the contact information of the hearing officer, by certified mail at least twenty (20) calendar days before the hearing. If the debtor cannot attend the scheduled hearing, the debtor must inform the hearing officer as soon as possible, but no later than seven (7) calendar days before the hearing, and request that the hearing be re-scheduled. The College will not schedule a hearing with less than twenty (20) calendar days' notice unless agreed upon by the college and the debtor.

C. The Hearing

1. Present at the hearing shall be the Vice President, the debt setoff coordinator, a representative from the department submitting the debt on behalf of the College, the hearing officer, and the debtor. The debtor may have an attorney or other advisor present, but the attorney or advisor only may consult with the debtor and may not address the hearing officer directly.
2. The hearing officer is responsible for conducting the session and will control the order of proof, rule upon the admission of evidence, and may examine and cross-examine witnesses. No issue previously contested and decided may be considered at the hearing. The hearing officer may require additional evidence, if deemed necessary, to answer the issues related to the evidence presented, recess the hearing, or continue it to another date for a good cause. Further, the hearing officer will:
 - a) Document the hearing by tape recording;
 - b) Identifying those present for the record;
 - c) Declare the purpose of the hearing, the procedure to be followed, the fact that the rules of evidence do not apply, and how a decision will be made and communicated to the debtor; and
 - d) Decide whether the college's claimed sum asserted as due and owing is correct; if not, make an adjustment to the claim.
3. If the debtor fails to appear at the hearing without good cause, the hearing will continue in the debtor's absence. If the hearing officer finds the claimed sum asserted to be due and owing, the hearing officer will rule in favor of the College.
4. The Vice President presents the College's evidence at the hearing. The debtor is given the opportunity to present their case and to provide supporting documentation. Each party is given a chance to ask questions of the other.

D. Disposition of Contested Debt Setoff Claims

1. Within ten (10) calendar days of the hearing, the hearing officer will notify the debtor of the decision by certified mail. If the hearing officer upholds the College's claim, the notification letter must inform the debtor of the right to appeal the decision in circuit court within thirty (30) calendar days of the date of the notification letter. The letter must refer the debtor to Va. Code § 58.1-527 for more information on filing an appeal. If the debtor does not file an

appeal, the College will pursue the debtor's refund, and collection procedures will be reinstated.

2. Within twenty (20) calendar days of a final determination that the debt is due and owing, the College will notify the Department to set off the refund against the debt. The Department will finalize the setoff by transferring the proceeds collected for credit or payment and refunding any remaining balance to the debtor. If the final determination is that the debt is not due and owing to the College, the College will notify the Department within twenty (20) calendar days, and the Department will refund the proceeds to the debtor.