

Central Virginia Community College Policies
II - General Administrative Policies
Debt Set-Off Hearing



Policy #:	CVCC0053
Effective:	__/__/__
Last Reviewed/Revised:	10/14/2022
Responsible Dept.:	Student Accounts
Other Policy References:	Virginia Code 58.1-526

Debt Set-Off Hearing

Purpose: To establish procedures for the hearing of an appeal by a debtor of Central Virginia Community College for a Debt Set-Off contested in writing.

Pursuant to authority as set forth in Section 58.1-526 of the Code of Virginia, 1950, as amended, the following procedures are hereby established for Central Virginia Community College for written applications of a hearing by a debtor of the College.

Upon receipt of a contest of a set-off debt claim, Central Virginia Community College will grant a hearing to the debtor to determine whether the claim is valid. The Business Manager shall arrange for a hearing date, place and time, then notify, in writing, all parties involved.

I. DEFINITION

“Debtor” means any individual having a delinquent debt or account with Central Virginia Community College which obligation has not been satisfied or set aside by a court order or discharged in bankruptcy.

II. APPLICATION FOR HEARING

- Within thirty (30) days of the mailing date of a Notice of Intention to Assert Rights to the debtor’s Virginia Income Tax refund by Central Virginia Community College, the debtor may give written notice to the college of intent to contest the validity of the claim. The written application by the debtor for a hearing shall be effective upon mailing the application, postage prepaid, and properly addressed to Central Virginia Community College, ATT: Business Office, 3506 Wards Road, Lynchburg, VA 24502. Any question about the timeliness of the mailing shall be resolved by reference to the postmark affixed by the Postal Service. Failure to apply for a hearing in accordance with these requirements, in writing within the thirty-day period, is deemed a waiver of the opportunity to contest the claim, causing final set-off by default.
- Upon filing of a written application for a hearing within the thirty (30) day period, the college may schedule an informal hearing between the debtor, the Vice President for Financial and Administrative Services or her designee, and other appropriate State Personnel involved. If such informal hearing is held, it shall be held within ten (10) days of receipt of the debtor’s written application for a hearing.
- In the event an informal hearing finds the dispute cannot be resolved to the satisfaction of the debtor and the college, the debtor may request, in writing, within ten (10) days of the informal hearing, a formal hearing before an appeals panel.
- If an informal hearing is not held, the debtor may file a written application for a formal hearing before an appeals panel within the thirty (30) day period.

III. APPEALS PANEL

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- A. If the debtor requests a hearing before the appeals panel, the President shall, within thirty (30) calendar days after the request, implement the procedures outlined below. For good cause, the time of selection of the panel may be extended by the President to the earliest date.
- B. Procedure for the Appointment of an Appeals' Panel**
- i. **Purpose:** To provide for a uniform and fair selection of prospective panel members and the appointment of the appeals panel from college personnel holding faculty rank.
 - ii. **Selection of Prospective Panel Members:** College Governance Committee will nominate prospective panel members at the beginning of each academic year. There shall be no less than 10 members representing Faculty, Classified Staff, Part-time Staff, and Administration.
 - iii. **Appointment of Appeals' Panel:** When it becomes necessary to appoint an appeals panel, at least one (1) administrator, one (1) faculty member and one (1) classified/part-time staff panel member shall be chosen at random by lot.
 - iv. **Eligibility for Panel Membership:** All prospective panel members shall continue to serve on the appeals panel until the claim is resolved.
 - v. **Chairperson:** The panel shall elect a chairperson from among their members by majority vote to preside at panel hearings. The chairperson will administer oaths and control the order of proof. Central Virginia Community College reserves the right to record the hearing and require that all oral presentations be under oath.

IV. PROCEDURES BEFORE APPEALS PANEL

For hearings before the appeals panel, the following rules shall apply

- A. **Private Hearing:** The hearing shall be closed, unless the debtor requests before commencement of the hearing, that the hearing be open to the public.
- B. **Legal Counsel:** Both the debtor and the college may be represented by legal counsel at the hearing, and both may call upon appropriate witnesses, and may cross-examine the opposing side's witnesses. Each party will bear all costs in employing representatives or legal counsel, and all costs of preparing and presenting their cases. If the college deems it necessary, representation may be requested from the Attorney General's office. Should the claim be a vendor set-off debt claim, the college shall request representation from the Department of General Services, Contract Compliance Section.
- C. **Burden of Proof:** The debtor shall bear the ultimate burden of proving by preponderance of the evidence that the claim or portion thereof, is invalid.
- D. **Opening Statement:** The debtor shall proceed first in the hearing. Each side shall be allowed a maximum of twenty (20) minutes before the presentation of evidence within which to make an opening statement.
- E. **Exhibits:** Exhibits, when offered by either side, may be received in evidence by the appeals panel upon proper authentication if such exhibits are deemed by the appeals panel to be relevant and material to the issue of the validity of the claim. When exhibits are received by the appeals panel, they shall be marked for identification and made a part of the record.
- F. **Evidence:** The appeals panel shall be the judge of the relevancy, materiality and weight of the evidence offered at the hearing, and shall have absolute discretion to allow or refuse evidence.
- G. **Closing Summation:** When both sides have indicated that their evidence has been fully presented in accordance with these rules, the chairperson shall allow each party to present a closing summation which shall not exceed fifteen (15) minutes in duration.

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- H. Upon the conclusion of the presentation of the closing summations, the chairperson shall declare the hearing closed. Once, closed, the hearing may not be reopened.
- I. **Collateral Estoppel:** No issue may be considered at the hearing which has been previously litigated or administratively addressed, except for good cause.
- J. **Stay Proceedings:** Pending final determination at the hearing of the validity of the debt asserted by the college, no action shall be taken in furtherance of collection through Set-Off Debt procedure allowed under Article 21, Chapter 3, Subtitle I, Title 58.1 of the Code of Virginia, 1950, as amended.
- K. **Transcript:** The College shall record the hearing. Should the debtor request the preparation of a transcript for judicial review, the cost shall be borne by the debtor.
- L. **Panel Decision:** After a full hearing, the majority decision of the appeals panel shall be filed in writing by the appeals panel chairperson. Absent, unusual or unforeseen circumstances, such as filing, shall be made no later than ten (10) working days after completion of the hearing. A copy of the decision shall be transmitted forthwith to the debtor and his legal counsel, if any. The written decision shall contain findings of fact and shall state the reasons for the decision. The appeals panel shall determine in its decision whether the claimed sum asserted as due and owing is correct, and if not, an adjustment to the claim shall be made.
- M. **Judicial Review:** Within then (10) days after the decision of the appeals panel is rendered, the debtor aggrieved thereby may secure judicial review, pursuant to the procedures set forth in Section 58.1-527 of the Code of Virginia, 1950, as amended.