

# OWCP publishes expectations for claimant representatives



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**T**he Federal Employees' Compensation Act (FECA) allows claimants to authorize an individual to represent them in claims with the Office of Workers' Compensation Programs (OWCP). The implementing regulations for representation are found in 20 CFR, Part 10.700. The regulations state, in part, that:

(a) The claims process under the FECA is informal. Unlike many workers' compensation laws, the employer is not a party to the claim, and OWCP acts as an impartial evaluator of the evidence. Nevertheless, a claimant may appoint one individual to represent

his or her interests, but the appointment must be in writing.

(b) There can be only one representative at any one time, so after one representative has been properly appointed, OWCP will not recognize another individual as representative until the claimant withdraws the authorization of the first individual. In addition, OWCP will recognize only certain types of individuals, however if the representative is an attorney, OWCP may communicate with any member of that attorney's recognized law firm.

(c) A properly appointed representative who is recognized by OWCP may make a request or give direction to OWCP regarding the claims process, including a hearing. This authority includes presenting or eliciting evidence, making arguments on facts or the law, and obtaining information from the case file, to the same extent as the claimant.

A claimant may authorize any individual to represent him or her in regard to a claim under the FECA. Union representatives, defined as any officially sanctioned union official, can provide representation as long as no fee or gratuity is charged.

**Earlier this year, OWCP rolled out the Entity program,** where attorneys, union representatives and non-attorney representatives can register and claimants can request representation. (See the March 2022 *Postal Record*.) Many NALC branches registered in Entity and are currently representing injured letter carriers. Representing injured letter carriers can be rewarding and frustrating for both claimants and representatives.

On Nov. 7, OWCP published *Expectations for Representatives Appearing Before the Office of Workers' Compensation Programs*, a formal notice of expectations of conduct in the Federal Register. The notice is a formal set of expectations regarding the conduct of representatives who interact with OWCP staff. The intent is to respond to inappropriate behavior on the part of a small percentage of representatives for OWCP claimants.

The notice recognizes that:

[w]hile the vast majority of individuals who interact with Federal workers during the processing of claims do so in an appropriate

manner, there have been recurring instances of improper and abusive conduct directed at OWCP's employees by a small minority of individuals representing parties/claimants.

The notice explains how OWCP strives to treat all claimants and their representatives with courtesy and respect, to prohibit discrimination and/or harassment against their employees, and expects that claimants and their representatives will extend that same courtesy and respect to OWCP employees.

OWCP expects all attorneys and other persons acting on behalf of a claimant to both provide competent assistance to the claimant and recognize OWCP's authority to lawfully administer the process.

**The notice then lays out guidelines for representatives** regarding OWCP's expectations of affirmative conduct, and specific conduct they find unacceptable, including:

- Disrespectful and obstructive behavior that does not benefit claimants and interferes with proper administration of the claims process.
- Communications with OWCP or other parties or representatives in a threatening or disrespectful manner.
- Conduct that in any manner or by any means, threaten, coerce, intimidate, deceive or knowingly mislead a party/claimant or prospective party/claimant regarding the availability of benefits or other rights under the FECA.

Having represented injured letter carriers for many years, I understand the problems encountered by claimants and their representatives. Unanswered or unreturned phone calls, as well as poorly written claim denials, are frustrating for myself and the claimants I represent.

When OWCP nationalized the claims process a couple of years ago, claims examiner workloads were adjusted and OWCP increased accountability for claims examiners' work. Many senior claims examiners quit, retired or moved to other agencies. That led OWCP to hire 280 new claims examiners in the last year.

As a result, many of those claims examiners are still learning how to do their jobs. OWCP budgets no overtime for its staff, meaning that claims examiners have a lot of work to do in an eight-hour day. Every angry phone call from claimants or their representatives unnecessarily adds to the claims examiners' workload.

NALC members who choose to represent injured letter carriers need to be mindful of how they communicate with OWCP. Always be respectful. Focus your phone calls on asking specific questions rather than on airing complaints.

To improve customer service, the Biden administration recently reached out to the NALC to ask what concerns we had regarding the Entity program. It's refreshing to have an administration that is interested in improving customer service at OWCP.