

**United States Department of Labor
Employees' Compensation Appeals Board**

P.P., Appellant

and

**U.S. POSTAL SERVICE, MID-ISLAND
PROCESSING & DISTRIBUTION CENTER,
Melville, NY, Employer**

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) **Docket No. 25-0847**
) **Issued: December 15, 2025**
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Appearances:

*Thomas Harkins, Esq., for the appellant¹
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 3, 2025 appellant filed a timely appeal from a March 27, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on an appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish an emotional/stress-related condition in the performance of duty, as alleged.

FACTUAL HISTORY

On May 13, 2023 appellant filed an occupational disease claim (Form CA-2) alleging that she developed a cardiac condition due to factors of her federal employment, including being yelled at and harassed by D.F., a supervisor, dating back to 2022. She noted that she first became aware of her claimed condition and realized its relationship to her federal employment on April 12, 2023.³ Appellant stopped work on April 12, 2023 and returned to work on April 17, 2023. In an accompanying statement, she indicated that she experienced cardiac symptoms from April 1 through April 8, 2023, which she attributed to a “series of harassing events” at work since October 22, 2022. Appellant also indicated that during her overnight shift on April 11, 2023, she experienced chest pain at work due to stress and was taken to the hospital by ambulance.

In support of her claim, appellant submitted an e-mail dated February 11, 2023 wherein she notified M.F., an employing establishment manager, that she had been feeling unsafe at work due to harassment and bullying by D.F., a supervisor.

In an incident report dated March 13, 2023, appellant asserted that D.F. suspended her driving privileges without conducting a proper investigation after she was involved in an accident on February 25, 2023.

In an employing establishment form dated March 24, 2023, appellant indicated that D.F. invaded her personal space in the locker room and hallway in an effort to initiate a physical altercation. In an attached response, D.F. indicated that she had no intention to make her feel “that way” in the locker room and denied any incident or interaction in a hallway. An employing establishment official reviewed each statement and, on March 29, 2023, noted that both parties should be respectful of personal space.

Appellant submitted medical evidence in support of her claim.

In a development letter dated June 7, 2023, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to respond.

OWCP thereafter received a statement dated October 22, 2022, wherein appellant indicated that D.F. changed the start time of her shift without providing her with proper notice, and that other employees were allowed to claim unauthorized overtime hours. In a separate statement dated

³ OWCP assigned the present claim OWCP File No. xxxxxx725. Appellant previously filed a Form CA-2 alleging that she experienced a panic attack due to factors of her federal employment, including harassment by a supervisor. She noted that she first became aware of her condition and realized its relationship to her federal employment on January 22, 2021. OWCP assigned that claim OWCP File No. xxxxxx658.

January 18, 2023, appellant asserted that D.F. also unfairly marked her late or absent on November 10 and 30 and December 24, 2022.

In a statement dated January 5, 2023, appellant asserted that on January 2, 2023 D.F. unfairly refused to provide appellant with her e-mail address in connection with an unrelated FECA claim.

In a statement dated January 14, 2023, appellant asserted that D.F. failed to contact her regarding scheduling issues.

In a statement dated January 17, 2023, appellant indicated that D.F. neglected her duties and retaliated against her for complaining about favoritism and lack of transparency with respect to the assignment of overtime hours. In a separate statement of even date, she indicated that the employing establishment's policy requiring employees to clock out to leave the premises made her uncomfortable because she might need to leave the premises if she had a feminine emergency.

In a statement dated January 19, 2023, appellant asserted that D.F. yelled across the yard at her in front of other employees to scold her for not wearing a mask.

In statements dated January 24 and February 24, 2023, appellant indicated that she was not provided with a half-hour break when she worked a twelve-hour shift on January 23, 2023. She also asserted that D.F. failed "to address any of my work-related issues and alienates me by intentionally disregarding my needs as an employee."

In a statement dated January 25, 2023, appellant indicated that D.F. requested that she report to her office for a meeting that day without advanced notice.

In statements dated January 25 and February 3 and 24, 2023, appellant related that since January 2023, D.F. required her to come to her office in person after her scheduled trips and breaks, which D.F. did not require other employees to do. In the February 24, 2023 statement, she also indicated that D.F. tried to scare her by walking behind her and clapping her hands loudly and by walking into the women's bathroom and sighing loudly.

In a statement dated January 26, 2023, appellant indicated that her truck's fuel was low and the employing establishment fuel pumps were not working. She requested that D.F. assign another driver to take her load and proceeded to buy gasoline at a local station before returning to the yard. When appellant returned, D.F. falsely claimed that she had instructed appellant not to put gas in the truck and then yelled at her to provide a receipt for the gasoline purchase.

In an employing establishment form dated January 27, 2023, appellant reiterated previously reported concerns about D.F. In a statement dated March 14, 2023, she indicated that she had not received a response to the January 27, 2023 report.

Union grievance forms dated February 15 through May 14, 2023 indicated that D.F. was to receive training on communication skills and treating employees with dignity and respect.

In a statement dated February 27, 2023, appellant noted that after her February 25, 2023 accident, D.F. "incarcerated" her in the breakroom for eight hours while D.F. played loud gospel music and clapped her hands. In a separate statement dated April 21, 2023, she related that from

February 27 through March 3 and March 6 through 8, 2023, D.F. made loud noises to scare her, turned on loud religious music, and turned on the platform walkie-talkie channel at a high volume.

In statements dated March 25 and April 19, 2023, appellant indicated that D.F. removed her from her sixth-day overtime assignment without notification or explanation.

In a statement dated March 31, 2023, appellant asserted that D.F. was intentionally taking a long time in the restroom when appellant needed to change into her uniform. D.F. told D.A., an employing establishment dispatch clerk, to tell her that she had to wait because D.F. was in the restroom first and appellant should have been ready before her tour started. When D.F. exited the restroom, D.F. yelled “You are on the clock, you should have been ready before your tour starts!” In a separate statement of even date, appellant related that on March 24, 2023 she was unable to access the restroom due to D.F.’s “behavior pattern of being in the restroom for an excessive amount of time or instead waiting on me to come into the restroom when I needed to use it.”

In a statement dated April 9, 2023, appellant indicated that over the prior several days, D.F. stood in the bathroom doorway watching her and then made a loud sigh to get her attention.

In a statement dated April 14, 2023, appellant indicated that on April 11, 2023 she was instructed to take a rental truck. She related that she told D.F. that she did not feel safe driving the rental truck, to which D.F. shouted, “I don’t have time for this!” Appellant requested her union representative, M.F., and D.F. instructed D.A. to provide appellant with the truck’s inspection sheet. She indicated that she attempted to explain her safety concerns to D.F., but D.F. was yelling and talking over her. M.F. arrived and indicated that D.F. gave other drivers the courtesy of another truck, but not appellant, which amounted to favoritism. D.F. then yelled at M.F. When they went to retrieve the keys to the rental truck, they learned that it was not in the yard. Appellant was assigned another truck and departed, but began to feel chest pain, shortness of breath, and nausea. She stopped at another employing establishment warehouse location and a supervisor there called 911. EMS took appellant to the hospital.

In an October 31, 2023 development letter, OWCP requested that the employing establishment provide information regarding appellant’s claim, including comments from a knowledgeable supervisor. It afforded the employing establishment 30 days to respond.

In a statement dated November 8, 2023, D.A. indicated that she did not see or hear D.F. yelling at or harassing appellant regarding the rental truck issue on April 11 or 12, 2023. She indicated that it was eventually determined that the assigned truck was not on the premises.

In a November 9, 2023 response to OWCP’s development letter, D.F. explained that when there is a problem with a vehicle, the employing establishment’s procedure is to have the employee complete a repair tag, a supervisor signs off on it, and the driver is issued another vehicle. She asserted that on April 11, 2023 she followed procedure and did not harass appellant. D.F. indicated that she was not aware that appellant had a medical issue on that date until she received an email dated April 12, 2023 by an employing establishment manager out of Phillipsburg, NJ, who notified D.F. that appellant reported chest pain and difficulty breathing at 3:35 a.m. on April 12, 2023. She also attached an employing establishment July 15, 2023 report of the initial management inquiry process.

Appellant submitted an additional statement dated November 16, 2023 and attached statements by several of her coworkers as follows: a February 11, 2022 email from H.S., who asserted that his rights were violated during a pre-disciplinary interview because “the supervisor” was talking over him; an April 5, 2022 letter by D.C., who indicated that D.F. improperly categorized him as leave without pay on March 21, 2022 and then yelled at him; an April 13, 2022 statement by P.G., who indicated that when D.F. became his supervisor, she assigned the truck he previously used to someone else; an undated statement by T.S., who indicated that D.F. unfairly denied him leave, did not adequately communicate his return to work date, and ignored him when he tried to explain things to her; a March 14, 2023 statement by J.E., who indicated that D.F. acted unprofessionally, misused her authority, created confusion by using intimidating tactics; an April 15, 2023 statement by F.E., who asserted that D.F. behaved in an unprofessional manner and abused her power by changing routes and logistics without foreseeing the consequences of such alterations at the transportation level, which created a toxic and hostile environment with unnecessary stress; and a November 28, 2023 statement by K.A., who indicated that he observed D.F. hug another driver which was unethical and made him cringe every time he walked by her office.

In statements dated April 16 and November 27, 2023, B.S., an employing establishment union shop steward, related that he received a lot of complaints from drivers that D.F. created a hostile work environment by changing assigned trucks, adding extra stops, and canceling trips without notice, which delayed the mail from arriving and departing on time. He indicated that these unwarranted changes caused a lot of confusion and hostility between management and drivers. B.S. also indicated that he observed D.F. show favoritism toward L.B., a temporary supervisor, while singling out appellant. He also observed D.F. yell at drivers in a threatening manner about unfueled trucks in front of other drivers.

OWCP also received a series of statements by D.A. as follows: on August 23, 2023 D.A. related that when D.F. was not there for two or three months, everyone was happier and work went smoothly, but when D.F. returned she was inconsiderate to D.A. by closing the warehouse door and turning the heat on in the summer; a January 5, 2024 statement that D.F. put D.A. in the middle of a bathroom issue with another female employee and then nagged her to write and re-write statements until the wording was acceptable to D.F., which D.A. did not think was right or fair; and a January 12, 2024 statement, which indicated that D.F. invaded D.A.’s privacy and made her uncomfortable, that she intentionally annoyed other employees by listening to her walkie talkie and music at a very high volume, that she passed gas all night, and that she made confusing and unnecessary changes to truck and route assignments that led to expeditors getting upset with D.A., which was embarrassing and stressful for her.

By decision dated July 25, 2024, OWCP denied appellant’s emotional condition claim, finding that she had not established any compensable employment factors under FECA. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On November 15, 2024 appellant, through counsel, appealed to the Board. By order dated December 10, 2024, the Board vacated OWCP’s May 30, 2024 decision and remanded the case to

OWCP to administratively combine OWCP File Nos. xxxxxx658 and xxxxxx725, and to consider whether the files were duplicate claims, to be followed by a *de novo* decision.⁴

By *de novo* decision dated March 27, 2025, OWCP denied that appellant sustained an emotional condition in the performance of duty, finding that she had not established a compensable employment factor under FECA. It also noted that her claims under OWCP File No. xxxxxx658 and xxxxxx725 were not duplicative, as each claim referenced different supervisors, time frames, and circumstances.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,⁶ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁷ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁸

To establish a claim for an emotional condition in the performance of duty, an employee must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his or her condition; (2) medical evidence establishing that he or she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his or her emotional condition.⁹

Workers' compensation law does not apply to each and every injury or illness that is somehow related to a claimant's employment. There are situations where an injury or illness has some connection with the employment but does not come within the purview of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is deemed compensable.¹⁰ However, disability is not compensable when it results from factors such as an employee's fear of

⁴ *Order Remanding Case*, Docket Nos. 25-0118 and 25-0119 (issued December 10, 2024).

⁵ *Supra* note 2.

⁶ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁷ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁸ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁹ *R.B.*, Docket No. 19-0343 (issued February 14, 2020).

¹⁰ *A.C.*, Docket No. 18-0507 (issued November 26, 2018); *Pamela D. Casey*, 57 ECAB 260, 263 (2005); *Lillian Cutler*, 28 ECAB 125, 129 (1976).

a reduction-in-force, or frustration from not being permitted to work in a particular environment, or to hold a particular position.¹¹

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under FECA.¹² However, the Board has held that where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded.¹³ In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.¹⁴

For harassment or discrimination to give rise to a compensable disability under FECA, there must be probative and reliable evidence that harassment or discrimination did in fact occur.¹⁵ Mere perceptions of harassment, retaliation, or discrimination are not compensable under FECA.¹⁶ A claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence.¹⁷

ANALYSIS

The Board finds that this case is not in posture for decision.

OWCP denied appellant's emotional condition claim on the grounds that she did not establish any compensable employment factors. The Board must, thus, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of FECA.¹⁸ The Board notes that appellant's allegations do not pertain to her regularly or specially assigned duties under *Cutler*.¹⁹ Rather, her allegations pertain to a pattern of harassment, intimidation, and disparate treatment by D.F.

¹¹ *Lillian Cutler*, *id.*

¹² See *G.R.*, Docket No. 18-0893 (issued November 21, 2018); *Andrew J. Sheppard*, 53 ECAB 170-71 (2001), 52 ECAB 421 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

¹³ See *O.G.*, Docket No. 18-0359 (issued August 7, 2019); *D.R.*, Docket No. 16-0605 (issued October 17, 2016); *William H. Fortner*, 49 ECAB 324 (1998).

¹⁴ *B.S.*, Docket No. 19-0378 (issued July 10, 2019); *Ruth S. Johnson*, 46 ECAB 237 (1994).

¹⁵ *R.D.*, Docket No. 19-0877 (issued September 8, 2020); *Marlon Vera*, 54 ECAB 834 (2003).

¹⁶ *Id.*; see also *Kim Nguyen*, 53 ECAB 127 (2001).

¹⁷ See *K.F.*, Docket No. 23-0278 (issued August 7, 2023); *E.G.*, Docket No. 20-1029 (issued March 18, 2022); *S.L.*, Docket No. 19-0387 (issued October 1, 2019); *S.B.*, Docket No. 18-1113 (issued February 21, 2019).

¹⁸ *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *Dennis J. Balogh*, 52 ECAB 232 (2001).

¹⁹ See *R.D.* *supra* note 15; *L.H.*, Docket No. 18-1217 (issued May 3, 2019); *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, *supra* note 10.

Appellant alleged multiple incidents in which D.F. intimidated, followed, singled her out, and harassed her beginning on October 22, 2022. In support of her claim, she submitted witness statements wherein P.G., F.E., D.A., and B.S. corroborated that D.F. unnecessarily changed truck assignments, added extra stops, and canceled trips without notice, which delayed the mail from arriving and departing on time and caused a lot of confusion amongst the drivers and hostility between the drivers, dispatchers, and management. B.S. also indicated that he observed D.F. show favoritism toward L.B. while singling out appellant, and that he observed D.F. unfairly yell at drivers about unfueled trucks. Disputes and incidents alleged as constituting harassment that are established as occurring and arising from an employee's performance of his or her regular duties can constitute employment factors.²⁰ The Board therefore finds that evidence of record is sufficient to establish a pattern of harassment, intimidation, and disparate treatment as a compensable factor of employment.²¹

As OWCP found that there were no compensable employment factors, it has not analyzed or developed the medical evidence on the issue of causal relationship. Thus, the Board shall set aside OWCP's March 27, 2025 decision and remand the case for consideration of the medical evidence with regard to whether appellant has established an emotional/stress-related condition causally related to the compensable employment factor of a pattern of harassment, intimidation, and disparate treatment. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

²⁰ *S.K.*, Docket No. 23-0655 (issued September 18, 2023); *D.B.*, Docket No. 18-1025 (issued January 23, 2019); *David W. Shirey*, 42 ECAB 783 (1991).

²¹ *See J.E.*, Docket No. 25-0602 (issued August 11, 2025); *C.B.*, Docket No. 20-1259 (issued July 15, 2022).

ORDER

IT IS HEREBY ORDERED THAT the March 27, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: December 15, 2025
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board