

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

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D.H., Appellant )  
and ) Docket No. 25-0538  
DEPARTMENT OF THE INTERIOR, )  
BUREAU OF RECLAMATION, Denver, CO, )  
Employer ) Issued: July 16, 2025

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*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On May 12, 2025 appellant filed a timely appeal from an April 17, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

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

**FACTUAL HISTORY**

On July 31, 2023 appellant, then a 70-year-old electrical engineer, filed an occupational disease claim (Form CA-2) alleging that he sustained emotional/stress-related conditions,

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

including irritable bowel syndrome (IBS), depression, anxiety, and fatigue, due to factors of his federal employment, including exposure to a hostile and predatory work environment where managers practiced favoritism. He noted that he first became aware of his claimed conditions on September 21, 2015, and realized their relation to his federal employment on June 22, 2018. On the reverse side of the Form CA-2, E.M. indicated that she had been appellant's immediate supervisor since January 4, 2022 and maintained that his claims were "based on unvalidated information, misrepresentation of events, and hearsay." Appellant stopped work on May 12, 2023.<sup>2</sup>

In an accompanying July 31, 2023 statement, appellant asserted that his depression, anxiety, and gastrointestinal problems were caused by a toxic work environment where the employing establishment engaged in predatory acts and favoritism. He claimed that management fabricated his performance appraisals, and disregarded his skills, knowledge, experience, and accomplishments while giving promotions to less-experienced engineers for unremarkable accomplishments. Appellant alleged that almost immediately after he began working for the employing establishment in September 2015, he realized that J.B., his immediate supervisor, was completely disinterested in his abilities, acted in a vindictive manner towards him, and unfairly favored other subordinates over him. He indicated that although he was hired under the rotational engineer program, J.B. made no effort to arrange rotating assignments for him, even though employing establishment guidance required him to do so. Appellant advised that he started working at the GS-7 level in a group with others at the same level, but that J.B. catered to other favored employees in the group by assigning them more project management duties, even though he had more experience in the field. He claimed that upper management did nothing to address this matter. Appellant asserted that J.B. was "clueless with respect to workload" levels when assigning him work tasks as he did not know the effort required to complete any given task. He alleged that J.B. could "weaponize the workload" by assigning difficult work with tight budgets to some employees and by assigning easier workloads to others who were "accepted into the social circle." Appellant indicated that J.B. solicited input from favored employees and offered them guidance, but did not do so for him.

Appellant claimed that management had no standards for the performance of architectural engineering designers, thereby allowing supervisors and other rating officials to make arbitrary assessments when producing their performance evaluations. He alleged that he was wrongly removed from a project (Project One). Appellant claimed that J.B. and other managers created the appearance that he was negligent in his job performance and that they failed to provide him with adequate resources to complete the project. When the project was not completed on time he asserted that J.B. lied and said appellant had not notified him that more resources were needed. Appellant claimed that, for the 2020 performance evaluation, J.B. improperly solicited baseless and negative input from coworkers for the express purpose of creating the false impression that his performance was poor. He noted that he had filed an Equal Employment Opportunity (EEO) complaint regarding this matter, but that it had not yet been adjudicated. Appellant alleged that he was tasked with working on another project (Project Two) using sophisticated software without having received training in its use. He asserted that he authored a report, which pointed out problems regarding the project, but that the report was ignored by management. Appellant

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<sup>2</sup> Appellant retired from the employing establishment effective September 29, 2023.

claimed that management gave favored coworkers, including L.B., more authority and budgeted them more money for their job tasks, regardless of their qualifications.

Appellant claimed that L.B.'s supervisor sent him a letter, which misrepresented events that occurred during a value planning study. He indicated that this supervisor then sent him another letter, which contained baseless allegations regarding his job performance. Appellant noted that he was asked to review contractor submittals on a project (Project Three) by B.H., a construction liaison, but that B.H. and Z.C., the project manager, wrongly made it appear that he was responsible for the delays in completing the project. He alleged that with respect to a separate project (Project Four), the contracting officer representative wrongly stated that she was "feeling hostility" from him and that his supervisor incorrectly concluded that he acted in a hostile manner. J.B. then wrongly removed him from the project, and L.B. and another less-experienced engineer, L.O., were assigned to it. Appellant indicated that he advised L.O. that decorum needed to be maintained after she cut him off while he spoke during a meeting regarding Project Four and that her supervisor, A.B., wrongly told management that his comments to L.O. were inappropriate. He further indicated that he applied for a GS-12 level position but unfairly was not selected. Appellant claimed that the successful candidate, L.B., had lied about his work experience on his job application without consequence. He noted that he made multiple complaints to the employing establishment's Office of Inspector General (OIG), but that it never investigated a single complaint, including one regarding an e-mail that an information resources official for the employing establishment sent to J.B., which mischaracterized events involving him. Appellant indicated that he first experienced gastrointestinal symptoms in approximately April 2012 but that his symptoms steadily worsened after he began working for the employing establishment in September 2015.

Appellant submitted a February 17, 2023 report wherein Dr. Regina Y. Leverrier, a Board-certified psychiatrist, indicated that appellant reported he had a gastrointestinal disorder since 2012 and developed anxiety, depression, fatigue, and insomnia after he started working for the employing establishment in an environment he described as "predatorial." Dr. Leverrier diagnosed anxiety, depression, fatigue, and insomnia, and advised that Dr. Rachel Saul, an osteopath and Board-certified family medicine physician, had diagnosed IBS. She opined that these conditions were "caused and aggravated by the workplace." In a July 24, 2023 report, Dr. Saul diagnosed IBS and opined that the condition was "caused and aggravated by employment."

In an August 9, 2023 letter, the employing establishment challenged appellant's occupational disease claim.

In an August 9, 2023 development letter, OWCP notified appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. In a separate development letter of even date, it requested that the employing establishment provide comments from a knowledgeable supervisor regarding appellant's allegations. OWCP afforded the employing establishment 30 days to respond.

In an August 16, 2023 e-mail, E.M. advised that she became appellant's acting supervisor on January 3, 2022 and became his official first-line supervisor on April 10, 2022. She indicated that she did not know the details of his claimed employment incidents/conditions because she

was not his supervisor during the period they were alleged to have occurred. E.M. advised that J.B. was appellant's immediate supervisor during the period of the claimed employment incidents/conditions, but that J.B. had retired from the employing establishment. In an August 22, 2023 e-mail, J.D.B., a supervisory human resources specialist for the employing establishment, maintained that a majority, if not all, of appellant's claims had been addressed in various forums and asserted that the employing establishment had vigorously defended itself against these claims. He denied that appellant was subjected to discrimination, retaliation, or a hostile work environment, as alleged. In an August 24, 2023 letter, A.G., a human resources specialist for the employing establishment, discussed E.M.'s e-mail and noted her attachment of a position description for appellant.

In an August 29, 2023 statement, appellant noted that his symptoms dissipated after he stopped work.

By decision dated February 9, 2024, OWCP denied appellant's claim for an emotional/stress-related condition, finding that he did not establish a compensable employment factor. It concluded that the requirements have not been met for establishing that he sustained an injury as defined by FECA.

On February 28, 2024 appellant requested reconsideration of the February 9, 2024 decision.

OWCP received complaints appellant filed in February 2024 with the U.S. Office of Special Counsel (OSC) alleging that management committed wrongdoing in connection with his work on Project One and Project Three.

By decision dated May 21, 2024, OWCP denied modification of its February 9, 2024 decision.

On January 18, 2025 appellant requested reconsideration of the May 21, 2024 decision.

Appellant submitted a January 17, 2025 statement wherein he further discussed his 2020 performance evaluation and alleged that J.B. gave him an "unacceptable" rating as retaliation for filing an age discrimination complaint. He asserted that, during meetings regarding Project Four, both J.B. and L.O. cut him off when he spoke and that management began to "scapegoat" him when he exposed the lack of qualifications of the selected contractor. Appellant claimed that J.B. wrongly criticized him after L.O. and her supervisor, A.B., complained about his communications with them during meetings and through e-mails, and that J.B. improperly took him off a project. He asserted that J.B.'s failure to provide rotating assignments to him as required by his position description demonstrated that he had an animus against him. Appellant claimed that J.B. wrongly blamed him for delays on several projects, including Project Three, in his 2020 performance evaluation. He asserted that this performance evaluation was "fabricated" and contained a mischaracterization of a statement made by B.H. With respect to the 2020 performance evaluation, appellant further claimed that J.B. took the word of J.M., a construction liaison, that he acted in a "hostile and threatening" manner and made false statements about his communications with contractors. He asserted that P.D., a second-line supervisor, unfairly accused him of poor communication regarding a different project (Project Five) and that he improperly removed him from the project. Appellant maintained that E.M. improperly issued

him a letter of reprimand in March 2023 for making unprofessional comments regarding a value planning study and noted that his appeal to the Merit Systems Protection Board (MSPB) was dismissed on a jurisdictional basis. He further discussed his allegations that management improperly blamed him for problems with Project One and that he was unfairly denied promotion to a GS-12 position. Appellant claimed that the employing establishment improperly failed to require L.B. to prove he actually had the work experience he listed on his job application for the GS-12 position.

Appellant submitted copies of performance evaluations, résumés, project management plans, service agreements, contractor submittal documents, EEO complaint filings, excerpts from employee manuals, and documents and e-mails from 2015 regarding the rotational engineer program. He also submitted e-mails sent from 2019 through 2021 between himself, contractors, and managers regarding contractor proposals; documents and e-mails from early 2020 relating to a GS-12 position; and e-mails sent in mid-2020 between J.B. and P.D., which discussed concerns about his communication skills on the job.

The submitted performance evaluations included a copy of the 2020 performance evaluation in which J.B. gave appellant an “unacceptable” rating. J.B. noted in the evaluation that between March and July 2020 several managers and contractors complained to him regarding appellant’s communications with them on various project matters. Appellant also submitted his request for reconsideration of the 2020 performance evaluation, and the employing establishment’s denial of the request, received by appellant on October 16, 2020. In a September 1, 2020 statement, made in connection with an EEO complaint, J.B. denied appellant’s claim that in March 2020 he was subjected to age discrimination when he was not assigned a project manager role. He asserted that appellant did not request overtime work or changes to project budgets, and indicated that appellant’s work progress “has been hindered by his inability to get along with others and be an effective team member.”

By decision dated April 17, 2025, OWCP denied modification of its May 21, 2024 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>5</sup>

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>5</sup> 20 C.F.R. § 10.115(e); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *see T.O.*, Docket No. 18-1012 (issued October 29, 2018); *see Michael E. Smith*, 50 ECAB 313 (1999).

To establish an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying an employment factor or incident alleged to have caused or contributed to his or her claimed emotional condition; (2) medical evidence establishing that he or she has a diagnosed emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the accepted compensable employment factors are causally related to the diagnosed emotional condition.<sup>6</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.<sup>7</sup> On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force, or his or her frustration from not being permitted to work in a particular environment, or to hold a particular position.<sup>8</sup>

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.<sup>9</sup> Where, however, the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be considered a compensable employment factor.<sup>10</sup>

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.<sup>11</sup> Mere perceptions of harassment are not compensable under FECA.<sup>12</sup>

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish an emotional/stress-related condition in the performance of duty, as alleged.

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<sup>6</sup> See *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *M.C.*, Docket No. 14-1456 (issued December 24, 2014); *Debbie J. Hobbs*, 43 ECAB 135 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

<sup>7</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>8</sup> *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *Gregorio E. Conde*, 52 ECAB 410 (2001).

<sup>9</sup> See *R.M.*, Docket No. 19-1088 (issued November 17, 2020); *Thomas D. McEuen*, 41 ECAB 387 (1990); *reaff'd on recon.*, 42 ECAB 556 (1991).

<sup>10</sup> *L.R.*, Docket No. 23-0925 (issued June 20, 2024); *M.A.*, Docket No. 19-1017 (issued December 4, 2019).

<sup>11</sup> See *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).

<sup>12</sup> *Id.*

As appellant alleged that he sustained work-related emotional/stress-related conditions, the Board must initially determine whether he has established a compensable employment factor under FECA. The Board notes that appellant's allegations do not directly relate to his regular or specially-assigned duties pursuant to *Lillian Cutler*.<sup>13</sup> Rather, appellant has alleged that the employing establishment committed error and abuse with respect to administrative/personnel matters and that it subjected him to harassment and discrimination.

Appellant alleged that the employing establishment committed wrongdoing with respect to its handling of work assignments, performance evaluations, criticism/disciplinary actions, promotions, training, and provision of work resources. As noted above, such administrative and personnel actions would only constitute compensable employment factors when it has been established that the employing establishment committed error or abuse with respect to them.<sup>14</sup>

In particular, appellant claimed that management disregarded his skills, knowledge, experience, and accomplishments while giving promotions to less-experienced engineers for unremarkable accomplishments, including an occasion where a coworker was selected for a GS-12 level position instead of him. He asserted that J.B. improperly assigned other subordinates more substantial duties and provided them with more project funds, and that he made no effort to arrange rotating assignments for him, even though employing establishment guidance required him to do so. Appellant alleged that J.B. mismanaged the assignment of work projects and solicited input from favored employees and offered them guidance, but did not do so for him. He claimed that J.B. wrongly criticized his work and gave him improper performance evaluations, particularly with regard to his 2020 performance evaluation. Appellant alleged that management wrongly removed him from various projects and asserted that, with respect to these and other projects, J.B. and other managers improperly created the appearance that he was negligent in his job performance and failed to provide him adequate resources to complete the projects. He asserted that he was tasked with working on Project Two using sophisticated software without having received training in its use, and that his concerns about this and other projects were ignored by management. Appellant claimed that the supervisor of a coworker sent him letters, which misrepresented events that occurred during a value planning study and contained baseless allegations regarding his job performance. He asserted that he was interrupted while speaking during project meetings and that management wrongly sided with individuals who claimed that he communicated with them in a hostile manner. Appellant also maintained that E.M. improperly issued him a letter of reprimand in March 2023 for making unprofessional comments regarding a value planning study.

Appellant, however, did not submit evidence establishing that the employing establishment committed error or abuse with respect to administrative or personnel matters. He submitted documents from complaints he filed with respect to some of these matters, but the case record does not contain a final finding demonstrating that the employing establishment committed wrongdoing with respect to these matters.<sup>15</sup> Although appellant expressed dissatisfaction with the actions of several superiors, the Board has held that mere dislike or

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<sup>13</sup> See *Lillian Cutler*, *supra* note 7.

<sup>14</sup> See *supra* notes 9 and 10.

<sup>15</sup> See P.T., Docket No. 20-0825 (issued September 23, 2022); E.M., Docket No. 19-0156 (issued May 23, 2019).

disagreement with certain supervisory actions will not be compensable absent error or abuse on the part of the supervisor.<sup>16</sup> He has not substantiated error or abuse committed by the employing establishment in the above-noted matters and, therefore, he has not established a compensable employment factor with respect to administrative or personnel matters.

Appellant also alleged that the employing establishment committed harassment by scapegoating him for problems with work projects, which were caused by others, and generally claimed that he worked in a toxic work environment where the employing establishment engaged in predatory acts and favoritism. He also asserted that the employing establishment discriminated against him on the basis of age, and retaliated against him for filing an EEO complaint. As noted above, 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.<sup>17</sup> However, appellant did not submit documentary evidence demonstrating that harassment and discrimination occurred as alleged.<sup>18</sup> He did not submit a final finding of the complaints he filed with respect to some of these matters, which demonstrates that the employing establishment committed harassment or discrimination. Therefore, appellant has not established a compensable employment factor with respect to the claimed harassment and discrimination.

As the Board finds that appellant has not established a compensable employment factor, it is not necessary to consider the medical evidence of record.<sup>19</sup>

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish an emotional/stress-related condition in the performance of duty, as alleged.

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<sup>16</sup> *T.C.*, Docket No. 16-0755 (issued December 13, 2016).

<sup>17</sup> *Supra* note 11.

<sup>18</sup> *See B.S.*, Docket No. 19-0378 (issued July 10, 2018).

<sup>19</sup> *See B.O.*, Docket No. 17-1986 (issued January 18, 2019); *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 17, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 16, 2025  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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