



FFAS HUMAN RESOURCES DIVISION NEWSLETTER



Farm and Foreign
Agricultural Services
Human Resources Division

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Individual Employee Liability: Questions and Answers

Mark Guberman, Chief
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Employees of the Farm Service Agency frequently come into contact with members of the public in FSA offices, on farms, on the road and in other venues. And FSA employees take actions and make decisions everyday that affect the personal and professional lives of many Americans. A question often raised is whether an employee is personally liable if a producer or other third party sues the FSA, or the employee, for harm allegedly caused by an employee.

Generally speaking, neither federal nor county office employees will be personally liable for actions taken within the scope of their duties that cause personal injury or property damage. The Federal Torts Claims Act (FTCA) is the statute that allows the public to sue the United States for injuries and damages caused by its employees or those acting on the government's behalf. The federal courts consistently have found that both federal and county office employees are covered by the FTCA.

The FTCA requires that any lawsuit for injury or damage be filed solely against the United States and prohibits lawsuits against individual employees. For instance, in 2001, a County Executive Director and a Program Specialist were sued for allegedly conspiring against a producer in the calculation of disaster relief benefits. The court dismissed the claims against the individuals and stated that employees acting within the scope of their duties are "afforded absolute tort immunity." In 2008, a County Executive Director was dismissed from a lawsuit alleging that she intentionally caused emotional distress to a third party.

What is the Extent of the Immunity?

In general, employees are immune from liability for alleged acts of negligence or intentional acts that were committed within the scope of duties. Thus, suits relating to the negligent miscalculation of program benefits, wrongful denial of a loan application, negligently providing incorrect program information and other such acts could only be brought against the United States.

If an employee, however, is individually named in such a lawsuit, FSA will provide a statement to the Department of Justice (DOJ) that the employee was acting within the scope of his/her duties and the DOJ will request the court dismiss the suit against the employee and, if necessary, substitute the United States as the sole defendant. Importantly, the employee does not need to request representation by DOJ, the Agency, USDA Office of General Counsel and DOJ will work together to handle the matter.

Individual Employee Liability: Q&A (continued)

FTCA immunity, however, does not extend to actions that violate the United States Constitution. Often these actions allege a violation of the Fourth Amendment right against unreasonable search and seizures. Such lawsuits are rarely filed as a result of the work performed by FSA employees although, if a lawsuit on these grounds were filed against an individual employee,

DOJ still is likely to represent the employee if the acts taken were within the scope of the employee's duties. However, in this case, the employee must request representation by DOJ and both federal and county office employees may be represented by DOJ.

What is meant by "Scope of Duties"?

As this article notes, under the FTCA, no individual lawsuit against an FSA employee may proceed so long as the employee's actions were within the scope of his/her duties. What does this mean?

Typically, and almost certainly, all administrative actions taken in the office, such as those noted above relating to program and loan matters, are within the scope of duties. Actions taken outside of the office context, the most frequent being car travel, are not as easily defined.

In all likelihood, an employee who gets into a car accident when driving to or from a farm to perform, for instance, an assessment of chattel related to a loan application, would be immune from individual liability for any injury or damage caused by the employee. An employee making the same trip, but who causes an accident while making a detour to the bank to deposit a personal check, may not be immune from individual liability. This is because the detour to the bank was not made within the course of the employee's duties.

The bottom line is that, while an employee will be immune from individual liability and the cost of defending him or herself in court, for most actions taken during the course of a workday, as noted above, there are some less-defined situations. If any employee has questions about his or her potential liability, please visit the Office of General Counsel's website, available through www.usda.gov, for your local office contact.

Replace Your Vital Documents

Submitted by: Ernest Kary
Human Resources Assistant
Operations

Most of our important personal records can be replaced. Depending on the document you need, use these links as a starting point.

- [Address Change](#) – When you move, be sure to change your address with a few government agencies so that you'll continue to receive mail and any government benefits at your new location.
- [Bank Records](#) – Financial tips and resources for disaster recovery. (.PDF | requires [Adobe Acrobat Reader](#))
- [Birth, Marriage, and Death Certificates](#) – Get records based on the location of the birth, death, marriage, or divorce (County Court of Record).



Replace Your Vital Document (continued)

- [Damaged Money](#) – The Treasury Department will exchange mutilated or damaged U.S. currency.
- [Document Restoration--Fire](#) – The Library of Congress offers information on restoring fire-damaged documents and collections.
- [Document Restoration--Flood](#) – The National Archives offers information on how to care for your flood damaged photos, books, papers and more
- [Drivers' Licenses and Vehicle Registration](#) – Find your state's motor vehicle department to get or replace your driver's license and register your car.
- [Federal Civilian Personnel Records](#) – Go to the National Archives for guidance on requesting personnel records for former federal civilian employees. Current federal workers can get personnel records from their Human Resources office.
- [Green Card Replacement](#) – Get instructions on how to replace a lost, stolen, or damaged permanent resident card (green card).
- [Medical Information Form](#) – Download a form where you can record medical conditions and other health information for use in an emergency situation.
- [Medicare Card Replacement](#) – How to replace a lost, stolen or damaged Medicare card
- [Military Service Records](#) – How to get copies of military service records, to prove military service or for genealogy research
- [Passport](#) – Lost or stolen passports should be reported immediately. Contact the nearest U.S. embassy or Consulate if your passport is lost or stolen overseas.
- [Savings Bonds Recovery](#) – Cash and replace lost, stolen, or destroyed bonds.
- [School Records](#) – Contact your former school or the appropriate school district if the school has closed.
- [Social Security Card Replacement](#) – How to replace a lost or stolen Social Security card
- [Tax Return](#) – Request a copy of your federal tax return from the Internal Revenue Service (IRS).

You should also consider placing your most important and treasured documents in a Fire Safe or Safety Deposit Box with notification to the Executor of Your Estate.

Review your Federal Health Programs- Benefits are available that can help improve your health and well-being

Juliet McBride
Worklife Program Manager
Employee/Labor Relations and Benefits Branch

Many Federal employees do not find time to review their Federal health program benefits until they are faced with an illness or disease. Preventive health is the key to good health and well-being.

Did you know that effective January 1, 2011, all Federal Employees Health Benefits (FEHB) plans provide smoking cessation programs, including counseling, and prescription drugs approved by the Federal Drug Administration to treat tobacco dependency. Visit www.opm.gov/quitsmoking for additional information.

Furthermore, if you are enrolled in Blue Cross Blue Shield you may be eligible to receive discounts on memberships, monthly fees and other services at local fitness centers. In addition,

Review your Federal Health Programs (continued)

you may save on products, programs and consultations related to nutrition and diet through Jenny Craig and eDiets.

Government Employees Health Association participants may be eligible to receive discounts on fitness programs, at-home workout equipment, Nutrisystem meals, and more.

Many other FEHB plans may offer these or similar benefits such as access to a 24/7 medical advice line, education resources, free or discount educational classes (i.e. diabetes, asthma), online programs (i.e. health assessments, professional health coaches), and other wellness tools available to help them make healthy living easier and more affordable.

Employees who participate in the Federal Flexible Spending Account Program may be eligible for reimbursements of medical expenses or membership fees related to programs (i.e. fitness, wellness) deemed as a medical necessity by their health care provider. For additional information, refer to the Federal Flexible Spending Account Program website at www.fsafeds.gov.

So, if you are concerned about how you can improve and/or better manage your health through use of your current Federal health programs, take a few minutes to review your health plan benefits at www.opm.gov/insure. If you have questions about your benefits, contact a member service representative at the toll-free number provided for your plan.

If you have questions or comments about this issuance, contact the Worklife and Wellness Program Manager by e-mail at juliet.mcbride@wdc.usda.gov or by phone at 202-401-0683, TTY 202-205-9057.

Linda's Personal Lifestyle Change and Commitment for 2011

Linda Cronin
Worklife and Wellness Ambassador
Virginia FSA State Office

After the first of the year many provide themselves a list of goals that are stuck with for a couple of weeks and then revert back to the “old ways.” Then the self convincing begins “this year is going to be different.” Sound familiar? Often these goals are around better health, fitness, nutrition, to quit smoking and other goals. These are great goals as they can provide protection from heart disease, Type II diabetes, high blood pressure and other illnesses. This year, I am personally going to work on nutrition.

The experts, of whom I am not, substantiate that fad diets, starvation, fasting, and pills generally do not work over the long term; so I need a lifestyle change. I head to the **USDA Food and Nutrition Service website** (www.mypyramid.gov). There are terms like body mass index, waist circumference, body fat testing... ugh! Well, I selected I want to get a personalized plan option on the home page. I entered my height and reluctantly my weight; I am a victim of the decade (10) pound weight gain! The last thing I enter is my “high” activity level. Out pops my number-1800 calories a day.

I also get the 5 food groups and the serving size from each group and realize I eat beyond my requirements. Many things I do well - little salt, no soda, a vegetarian diet, lots of whole

Linda's Personal Lifestyle Change (continued)

grains, and usually meet my fruit and vegetable requirements. I evidently need to change my serving size, and reduce sweets and oils to 195 calories a day. Finally, it provides suggested exercise which is from 60-90 minutes a day; I have that covered.

In the spirit of humor, I give you Linda's *top 5 reasons* for deviating from my food plan:

- Chocolate - it is good for me so I can have this chocolate cake.
- Celebration - well... it is Dorothy's birthday.
- Exercise - I worked hard in that spinning class so I can have this.
- Serving size - this is healthy so I can have seconds.
- Cheese and ice cream - there is calcium in both and protein in the cheese.

I suggest coming up with other familiar *reasons*. If they are identified as the problem they are easier to solve. Again, I am not a nutritionist, but I offer some suggestions that can help make a difference.

- Keep a food diary. You will be surprised at how quickly the calories add up.
- Use a smaller plate.
- When eating out, eat half of it and save the other half for another meal.
- Variety -- eating a variety of foods ensures the proper nutrition.
- Consider a variety of vegetables and fruits colors through the week to ensure full nutritional benefits.
- Eat a lot of vegetables and fruit.
- Use alternative flavorings like garlic, cayenne pepper and other herbs and spices. Read up on the benefits of these as well. A lot of them have great benefits from stabilizing blood sugars, aiding digestion, helping with immunity and inflammation to nutritional benefits.
- When eating carbohydrates, make sure that you pair the food with a protein. This will help stabilize blood sugars and help keep you full.
- Eat a fiber rich diet.
- Drink lots of water.
- Educate yourself, read labels and acquire an understanding of the ingredients.
- Eat foods that are minimally processed.
- Dust off the crock pot and try to eat more nutritional food at home.
- Buy a cook book that has healthy easy to prepare recipes.
- Include your family and make this fun.
- Get out in the sun at least 15 minutes a day.

I wish good luck to whatever lifestyle changes are made this year. I am committed to my changes. The most valuable gift that anyone can have is good health. Taking care of me and maximizing my body helps assure a better quality of life.

Emerging Issues

Whilemenia Duncan, Communications Officer
Excerpted from applicable Web Sites noted below

OPM Proposes Change to Help Hire More Military Spouses

In a News Release Issued by OPM on March 9 - The U. S. Office of Personnel Management (OPM) is proposing a change to current regulation to enable more military spouses to benefit from an existing special hiring authority. Follow this link to read the entire article and link to the Federal Register: <http://www.opm.gov/news/opm-proposes-change-to-help-hire-more-military-spouses,1648.aspx>

April is Alcohol Awareness Month: Watch for health and wellness news in next month's newsletter from the FFAS Worklife and Wellness Ambassadors.

What's New at OPM?

Visit OPM's [What's New](#) listing. It is provided as our one-stop source for finding out what new or updated content has been issued by OPM. The list orders the date any new content was issued, provides a brief description of the content, and links to documents/files that are referenced.

Career Opportunities in FFAS

All jobs (headquarters and field) open throughout each Agency may be obtained by accessing:

FSA Federal (GS) positions & FSA County Office (CO) positions:
<http://jobsearch.usajobs.opm.gov/a9agfsa.asp>

FAS Positions:
<http://jobsearch.usajobs.opm.gov/a9agfas.asp>

RMA Positions:
<http://jobsearch.usajobs.opm.gov/a9agrma.asp>

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