

§ 842.140 Proper claimants.

(a) Anyone suffering property damage, personal injury, or death arising from an Air Force noncombat mission or other specified Air Force authorized mission performed by CAP, who is also a proper claimant under the appropriate subpart of this part.

(b) The United States, for claims arising out of activities of CAP caused by negligent acts or omissions of CAP members or third parties.

§ 842.141 Improper claimants.

CAP members, 18 years of age or older, whose personal injury or death claim is subject to the Federal Employees' Compensation Act, are improper claimants. FECA is their exclusive remedy.

§ 842.142 Claims payable.

A claim is payable if all of the following are present:

(a) It is for property damage, personal injury, or death.

(b) It is proximately caused by a CAP member.

(c) It arises from an Air Force noncombat mission performed by the CAP, or arises from an authorized mission performed by the CAP for which specific coverage under this subpart is granted by HQ USAF/JACC.

(d) It is otherwise payable because it meets the provisions of an appropriate subpart of this part.

§ 842.143 Claims not payable.

A claim is not payable if it:

(a) Is for use or depreciation of privately owned property, operated by CAP or its members on an Air Force noncombat mission, or other specified Air Force authorized mission.

(b) Is for personal services or expenses incurred by CAP or its members while engaged in an Air Force noncombat mission, or other specified Air Force authorized mission.

(c) Arises out of a CAP incident based solely on government ownership of property on loan to CAP.

(d) Arises from a CAP activity not performed as a noncombat mission of the Air Force or as a specified Air Force authorized mission. These claims are sent to HQ CAP-USAF/JA for referral to CAP's private insurer, with a

copy of the transmittal letter to HQ USAF/JACC.

**Subpart Q—Advance Payments
(10 U.S.C. 2736)****§ 842.144 Scope of this subpart.**

It tells how to make an advance payment before a claim is filed or finalized under the Military Claims, Foreign Claims and National Guard Claims Acts.

§ 842.145 Delegation of authority.

(a) The Secretary of the Air Force has authority to make an advance payment of \$100,000 or less.

(b) The Judge Advocate General has delegated authority to make an advance payment of \$100,000 or less.

(c) The following individuals have delegated authority to make an advance payment of \$25,000 or less:

(1) The Deputy Judge Advocate General.

(2) The Director of Civil Law.

(3) The Chief, Deputy Chief, and Branch Chiefs, Claims and Tort Litigation Staff.

(4) SJA of 9AF for CENTCOM, and the SJAs of PACAF and USAFE.

(d) This authority may be redelegated either orally or in writing. Oral redelegations should be confirmed in writing as soon as practical.

§ 842.146 Who may request.

A proper claimant or authorized agent may request an advance payment.

§ 842.147 When authorized.

Make advance payments only where all of the following exist:

(a) The potential claimant could file a valid claim for property damage or personal injury under the Military Claims, Foreign Claims, or National Guard Claims Acts.

(b) The potential claimant has an immediate need amounting to a hardship for food, shelter, medical or burial expenses, or other necessities. In the case of a commercial enterprise, severe financial loss or bankruptcy will result if the Air Force does not make an advance payment.

(c) Other resources for such needs are not reasonably available.

§ 842.148

(d) The potential claim equals or exceeds the amount of the advance payment.

(e) The recipient signs as advance payment agreement.

§ 842.148 When not authorized.

Do not make an advance payment if the claim is payable under the:

(a) Federal Tort Claims Act.
(b) International Agreement Claims Act.

(c) Military Personnel and Civilian Employees' Claims Act. (Separate regulations issued under the Act provide for partial payments.)

§ 842.149 Separate advance payment claims.

Every person suffering injury or property loss may submit a separate request for an advance payment. For example, where the Air Force destroys a house containing a family of four, each family member may submit a separate request for and receive an advance payment of \$100,000 or less.

§ 842.150 Liability for repayment.

The claimant is liable for repayment. Deduct the advance payment from any award or judgment given to a claimant. Reimbursement from the claimant will be sought if the claimant does not file a claim or lawsuit.

PART 845—COUNSEL FEES AND OTHER EXPENSES IN FOREIGN TRIBUNALS

- Sec.
- 845.1 Purpose.
- 845.2 Statutory authority.
- 845.3 Responsibility.
- 845.4 Criteria for the provision of counsel and payment of expenses in criminal cases.
- 845.5 Provision of bail in criminal cases.
- 845.6 Criteria for the provision of counsel and payment of expenses in civil cases.
- 845.7 Procedures for hiring counsel and obligating funds.
- 845.8 Payment of counsel fees and other expenses.
- 845.9 Appropriated funds chargeable.
- 845.10 Reimbursement.
- 845.11 Correspondence.

AUTHORITY: Sec. 8012, 70A Stat. 488, sec. 1037, 72 Stat. 1445; 10 U.S.C. 8012, 1037.

32 CFR Ch. VII (7-1-98 Edition)

SOURCE: 44 FR 75633, Dec. 21, 1979, unless otherwise noted.

NOTE: This part is derived from chapter 2 of Air Force Regulation 110-12, December 1, 1978.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 845.1 Purpose.

This part establishes criteria and assigns responsibility for the provision of counsel, for the provision of bail, and for the payment of court costs and other necessary and reasonable expenses incident to representation in civil and criminal proceedings, including appellate proceedings, before foreign courts and foreign administrative agencies, which involve members of the Armed Forces, civilian personnel and dependents. Payment of fines is not authorized hereunder.

§ 845.2 Statutory authority.

10 U.S.C. 1037 provides authority for employment of counsel, and payment of counsel fees, court costs, bail, and other expenses incident to representation of persons subject to the Uniform Code of Military Justice before foreign tribunals. For personnel not subject to the Uniform Code of Military Justice, funds for similar expenses may be made available in cases of exceptional interest to the service concerned, upon prior application through the Judge Advocate General of the service concerned, to the appropriate service secretary.

§ 845.3 Responsibility.

(a) Requests for provision of counsel, provision of bail, or payment of expenses will ordinarily be made by the defendant or accused through appropriate channels to the officer exercising general court-martial jurisdiction over him. This officer shall determine whether the request meets the criteria prescribed herein and, based upon such determination, shall take final action approving or disapproving the request. Within their geographical areas of responsibility, major commands in the