



DEPARTMENT OF VETERANS AFFAIRS  
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MAY 15 2006

May 15, 2006

Elizabeth Freeman  
VA Palo Alto Health Care System  
3801 Miranda Ave.  
Palo Alto, CA 94304

**RE: Federal Tort Claims Act Coverage**

Dear Ms. Freeman:

You have asked whether the Federal Tort Claims Act (FTCA) covers non-VA paid employees and VA-paid employees holding dual appointments at VA and Stanford University School of Medicine, referred to as Dually Appointed Persons (DAP). Further, with respect to DAPs, you seek assurance that they are covered under the FTCA while working on the Stanford portion of their time delineated in the Institutional Memorandum of Understanding defining the 60 hour work week (including reimbursement of some portion of that compensation to Stanford from the VA non-profit corporation, the Palo Alto Institute for Research and Education, Inc).

The affiliation agreement between VAPAHCS and Stanford, fully executed as of January 24, 2006, provides that, "through this affiliation agreement, a partnership is created to enable enhanced patient care, education and research." It further states, "When providing professional services covered by this agreement, protection of faculty members (except those providing services under a contract with VA) and trainees of the affiliated institution from personal liability while at a VA health care facility will be that which is provided under the Federal Employees Liability Reform and Tort Compensation Act 28 U.S.C.2679(b)-(d)."

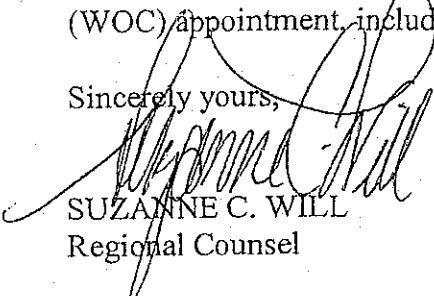
This is to confirm that the Federal Tort Claims Act (FTCA) covers VA employees acting within the scope and course of their duties when the individual:

- (1) has an appointment with the Department of Veterans Affairs, whether with or without compensation; and
- (2) is directly or indirectly involved or engaged in research or education and training that is approved in accordance with procedures established by the Under Secretary for Health governing the conduct of research or education and training; and

(3) performs such duties under the supervision of Department of Veterans Affairs personnel.  
(Reference Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 )

To summarize, any VA employee who works on VA approved research, no matter where the work is performed, who meets all three requirements above, is covered by the FTCA. This is true whether the employee holds a VA-paid or VA Without Compensation (WOC) appointment, including any work performed as part of their DAP duties.

Sincerely yours,



SUZANNE C. WILL  
Regional Counsel

cc: Donna McCartney, CEO, PAIRE