



This document was sent by email on November 16, 2022, to all law firms representing VCF claimants. All past communications with law firms are available under [“Information for Law Firms”](#) on the VCF website.

The updates listed in this document were recently made to the [Policies and Procedures](#) (“P&P”) on the VCF website. Please ensure all law firm staff who work VCF claims review the P&P to remain current on VCF policies and procedures.

- **Updates to Witness Presence Statements and Affidavits**

Summary of Change: The updates to our Policies and Procedures include removal of the section specific to affidavits. The updates also include language stating that **effective February 1, 2023, the VCF will no longer accept affidavits as proof of presence. All witness statements in support of presence signed after this date must use the [VCF Witness Presence Statement](#) (“WPS”) form.** Any affidavits signed and dated *prior* to this date will be accepted even if the affidavit is submitted after February 1, 2023. This allows time for law firms to gather any affidavits already completed but not yet submitted, and those in-process at this time.

NOTE: Alternative versions of the WPS form created by law firms are not acceptable. You must use the VCF form. In addition to this policy change, the following updates have been made to the WPS form:

- Updates to reflect the longstanding VCF policy about witnesses who were under the age of 18 at the time of 9/11. This language has now been incorporated into the instructions.
- Added information about the **new document type** to be used when uploading the completed WPS to the claim. **All Witness Presence Statement forms should be uploaded using the new “Witness Presence Statement” document type.**
- **New Date of Birth** field added for the witness to complete.
- New language added to encourage the witness to register with the VCF if he/she has not already done so.

Background Information – why we are making this change: The VCF’s policies regarding affidavits have been updated several times over the years, but one thing that has remained constant is the message that affidavits and witness statements should be the last resort for proving presence. “Last resort” means every attempt has been made to find the more definitive proof of presence documents based on the individual victim’s circumstances, and despite these efforts, there are no documents available. As examples, we continue to see affidavits for those in school at the time (rather than transcripts, report cards, etc.); affidavits for individuals employed by entities with whom the VCF has established guidance regarding what is needed to prove presence and where to find it (several employers and unions fall into this category); and affidavits for those who worked for an employer who is still in business rather than the preferred Third Party Verification (“TPV”) form.

We know proof of presence is the biggest hurdle to eligibility, and we are making progress each day in adding more employers and other organizations to our list of entities with established ways to prove presence. We also know not every transcript is available, and not every employer will complete the TPV form. If you have tried every possible avenue to find a document to prove a claimants’ presence, and it simply doesn’t exist, then the Witness Presence Statement (“WPS”) is an appropriate option.

The Witness Presence Statement was created several years ago to address the increasingly large number of insufficient affidavits submitted with claims. When the form was first made available, law firms were encouraged to use the form in place of affidavits to ensure the VCF gets the detailed information needed from these witnesses. At that time, the VCF did not require use of the form but strongly encouraged it.

Insufficient affidavits continue to create problems for the VCF, resulting in thousands of claims being placed on hold or made inactive, which creates extra work for the VCF to repeatedly “touch” these claims, and leads to delays in overall claims processing.



- **Payment-Related Updates**

- **Summary of Change – Client Authorization Forms: Effective December 1, 2022, all Client Authorization Forms signed after this date must use the system-generated form.** The PDF version of the form has been removed from our website. Instructions for completing and uploading the form remain the same – the only change is that the form must now be generated from within the claim. The “Information for Law Firms” section of our website has instructions for generating the form, as well as overall instructions for payments made to law firm accounts.

Background Information – why we are making this change: In August 2022, the VCF sent an [email to law firms](#) alerting you to new functionality in the online system that enables the generation of a pre-populated PDF version of the Client Authorization Form with data pulled directly from the individual claim. At that time, we noted that we strongly encouraged you to use the system-generated form for all new Client Authorizations, and we put firms on notice that within the next 1-2 months, we would transition to using only the system-generated form. We are now requiring use of the system-generated form.

- **Summary of Update – ACH Forms:** Law firms must continue to submit the law firm’s escrow account ACH form through email to the Law Firm Outreach team, or by mail or fax to the VCF. You should not upload your law firm’s ACH information to individual claims or add individual claim numbers to law firm ACH forms.

Background Information – why we are noting this update: In September 2022, the VCF received new guidance that allows the upload of ACH Payment Information Forms into the online claims system. The instructions found on the ACH form have been updated, as have the various places on our website where the form is referenced. Although this is a new and more efficient way for unrepresented claimants to submit their payment information, the VCF maintains each law firm’s banking information outside of the claims system and uses a “master” ACH form for each firm that reflects the most up-to-date banking information. This helps ensure that law firm banking information is accurate across all claims the firm represents and payment information is updated quickly, when needed.

- **NEW! Lead Personal Representative Designation Form**

Summary of Change: This [new form](#) must be used if the court has appointed multiple individuals as co-Personal Representatives (“PRs”) for the victim’s estate. The co-PRs must designate which court appointed individual will serve as the Lead Personal Representative (“Lead PR”) for purposes of the claim filed on the decedent’s behalf. The Lead PR is the individual the VCF will primarily communicate with regarding the claim, and the individual to whom the VCF will issue any payment on the claim. The form includes instructions and information about the rights and responsibilities of the Lead PR and the other co-PRs. The Lead PR designation does not provide the named individual with any additional authority over the claim or its processing.

Background Information – why we are making this change: This form will ensure the VCF gets the information needed for claims with multiple PRs and explains to the PRs why we need this information and what it means specific to the VCF claim.

- **Other Notable Changes to the Policies and Procedures (“P&P”)**

In addition to the updates noted above, we made a number of updates to multiple sections of the Policies and Procedures to bring them current with VCF policy. These changes codify in the P&P the policy updates that were communicated in 2022 via law firm calls or emails sent to all firms. The updates listed on the following page are highlights and we encourage you to ensure your staff remains current on the P&Ps.



- **Sections 1.5 through 1.9 – Presence at an Eligible Location.** Updates include the changes to the WPS and affidavits as noted above, a new paragraph specific to students and those in day care at the time, as well as some editorial updates.
- **Section 1.13 –Claims with Multiple PRs and Guardians.** Changes made to reflect the new Lead PR form noted above. Replaced “Guardians of a Non-Minor Victim” with “Guardian of an Incapacitated Adult,” and removed “Minors who reach 18 years of age during the processing of the VCF claim.”
- **Sections 2.2 (multiple subsections, including e, h, j, k, l) regarding Loss of Employment-related Benefits.** These sections have been updated to reflect the previously announced changes for members of NYCERS and NYSLRS; changes to remove references to the Union and Defined Benefit Plan Worksheet (no longer needed); and updates to the union documents that must be submitted with the claim.
- **Section 3 – Awards and Payment.** Updated to reflect the changes noted above specific to Client Authorizations.
- **Section 4 – Appeals and Hearings.** Updated to bring current with various reminders and other guidance communicated over the course of the year.
- **Section 6.5 – Multiple PRs.** Changes made to reflect the new Lead PR form noted above.
- **Section 8 – Expedite Process.** Updated to reflect recent guidance to firms re: financial hardship expedites.
- Removed references to requirements for original documents throughout the P&P and various forms and resources.
- **Updated forms and resources.** Various forms and other documents have been updated to reflect current policies. Significant updates were also made to the **PI and Deceased Document Checklists**. In addition, the Client Authorization Form, Union and Defined Benefit Plan Worksheet, and NYCERS/NYSLRS worksheet have all been **removed** from the website. **As a reminder, firms should always use the forms directly from our site (and not locally saved versions) to ensure the latest version is being used.**