
DATE: October 9, 2013 (Revised)

TO: All Employees

FROM: Risk Management, Workers' Compensation Department



SUBJECT: Workers' Compensation Program and Return To Work Policy

1. GENERAL

Pursuant to Workers' Compensation Law of the State of California, through its Self Insured Workers' Compensation Program, the Berkeley Unified School District shall provide statutory benefits including medical expenses, temporary compensation and benefits for permanent disability or death as required by the Act, to employees who incur an injury or illness arising out of and in the course of their employment. The amount and type of benefits available vary depending upon the specific of each situation.

This policy sets forth the District's commitment to the prevention of on-the-job accidents; treatment, care and rehabilitation of an employee; and the employee's rights and responsibilities when an on-the-job injury occurs; while protecting the financial integrity of the school district. Please note that the provisions within this document are subject to change based on the laws governing Workers' Compensation.

2. EXCLUSIVE REMEDY/ NO-FAULT STANDARD

Workers' Compensation is the exclusive remedy for employees injured on the job. It establishes, under most circumstances, a no-fault system that focuses on health recovery with an emphasis on getting employees back to work.

3. INSURANCE COVERAGE AND CLAIMS ADMINISTRATION

A. Self Insurance

On January 1, 2004, the District became self insured for its workers' compensation insurance. As a self insured entity, the District pays claims directly from District funds rather than paying premiums to an outside insurance agency. As a result, the number and magnitude of claims has a direct effect on the monetary resources of the District. To the extent we reduce claims, both in number and size; we can reallocate those monetary resources to other District priorities, including employee compensation and/or the educational program.

B. Claims Administration – Third Party Administrator (TPA)

The District utilizes a Third Party Administrator (TPA) to administer and manage its Workers Compensation Program benefits and processes, to include claim / benefit dispute matters. The District's Workers Compensation TPA is **JT2 Integrated Services**.

4. SAFE WORK ENVIROMENT

The District strives to make the workplace a safe and healthy environment for all persons including students, faculty, staff and visitors. The key to a safe environment is the prevention of on-the-job accidents before an injury occurs. This responsibility is shared by all, and everyone is encouraged to bring work-related health and safety concerns to their immediate supervisor/designee and/or the District's Risk Management Department as soon as possible. Supervisors must conduct periodic safety inspections of all work areas under their control. Employees will perform their jobs in a safe manner, with concern and care for their safety and the safety of others. Assistance is available from the Risk Management Department.

5. REPORTING PROCEDURES

The procedures within this section are to be followed when an employee sustains a work related injury or illness. These procedures conform to existing California Workers' Compensation laws and facilitate the delivery of appropriate benefits. Upon notification of the accident, the immediate supervisor or designee shall provide the employee with the District's Worker's Compensation Claim Packet. The immediate supervisor or designee will ensure all applicable forms are received within one working day of receipt from employee and submitted to the Risk Management Department. Regardless of the severity, or the need for medical treatment, employees must immediately report on the job accidents, injuries or illnesses to their supervisor.

CAL/OSHA requires fatalities and serious injury/ illnesses; including hospitalization be reported to OSHA within the first 8 hours of the injury. Therefore, the immediate supervisor or designee shall report all accidents within 6 hours of the injury to the Risk Management Department, by phone and facsimile. In relation to this subject matter, only the Risk Manager or designee shall speak on behalf of the District to Cal/OSHA.

5.1 Accident Reporting – Employee Electing Treatment

Employees electing to seek medical treatment, along with his/her supervisor shall complete the Workers' Compensation Packet. The Workers' Compensation Packet includes the Acknowledgement, DWC 1, Incident Report, Witness Report and Supervisor's Report. The employee's supervisor shall sign the "Employer" section all applicable forms. If there are any witnesses to the accident they may also complete the Witness Report and submit with other relevant forms. All documents are to be forwarded to Risk Management within **one (1) work day** of receipt of the form from the employee. A copy of each form should be retained at the site or department for record. By law, a claim is opened (**not accepted**) when the employer receives the DWC-1. **Employees should not submit the DWC-1 form if it is not their intention to file a claim.**

5.2 Accident Report – Employee not Electing Treatment

When an employee elects not to receive medical treatment, the employee and his/her immediate supervisor, shall complete the Report of Incident form. The completion of these forms preserves the employee's rights under Workers' Compensation. The forms should be completed as soon as possible, but no later than 2 work days after the injury occurs.

5.3 Suspected Reoccurrence or Aggravation of a Prior Injury

When an employee suspects that he/she has experienced a reoccurrence/aggravation of the original injury, the employee and immediate supervisor are to complete the process in section 5.1 above and contact the physician for the original injury. The employee shall also contact the claim examiner at the TPA who processed the original claim for additional instruction. Until the physician certifies that the employee has experienced an aggravation of a prior injury/illness or if the employee has sustained a new injury, the claim will be handled as new and *benefits will be placed on delay*.

6. MEDICAL TREATMENT

Workers' Compensation Program will pay for appropriate medical treatment of a compensable claim. Medication prescribed by the treating physician may also be provided under Workers' Compensation. If an employee has a prescription filled by a non-participating pharmacy, he/she will pay out of pocket and request reimbursement from the TPA. An employee experiencing a work related injury or illness electing to seek medical care shall do so in accordance with the District's policy and the medical treatment guidelines used under California's Workers' Compensation Act.

6.1 Medical Treatment Authorization

District medical treatment authorization, to its designated Occupational Health Center, is done on a District referral form. An injured employee is to contact Company Nurse at the time of injury, or as soon as possible, by calling (877) 247-1447. Company Nurse will make the referral advise the injured employee to schedule an appointment at Occupational Health Center, by calling (510)752-1244. If necessary, the employee's supervisor could contact Company Nurse on behalf of the employee. All medical treatment referrals for employees must be reported to Risk Management, via phone and/or email, by contacting:

Risk Management/Workers Compensation Office
Telephone: (510)-644-2879
Fax: (510) 644-8881

6.2 Treatment Facility – Kaiser Occupational Health Center

6.2.1 Normal Business Hours

Hours: M-F, 8:00am – 5:30pm
3701 Broadway Avenue, 5th Floor, Suite 501
Oakland, CA. 94611
(510) 752-1244

6.2.2 Kaiser's Oakland Medical Center – After Hours / Urgent Care

Hours: M-F, after 5:30pm and open on weekends

280 W. MacArthur Blvd.

Oakland, CA. 94611

(510) 752-7600

Please be advised that all employees are to be seen at the Occupational Health Clinic named above unless the following exceptions apply. Failure to comply can jeopardize coverage under the Workers' Compensation Act:

- The employee is away from the District, on District authorized business, and is in need of immediate care.
- The injury requires emergency hospital care.
- A written Physician Pre-Designation form, authorizing the employee treatment by his/her own primary treating physician is on file in the Risk Management office prior to the injury.
- 30 days after the date of reported injury, an employee may change from the District's approved medical provider and choose his/her own physician: however the employee must notify the District and the TPA in writing of this change. The TPA will review the request and process accordingly.

6.3 EMERGENCIES

6.3.1 Life Threatening in Nature

When an injury or illness is life threatening in nature, such as loss of limb or a severe burn, call 911 to be seen at the nearest emergency facility. Any follow up treatment must be with Kaiser's Occupational Health, listed in section 6.2.1. **An employee's supervisor must contact Risk Management in the time frame noted under section 5.0 Reporting Procedures.**

6.3.2 Urgent, but not Life Threatening in Nature

If there is an urgent work related injury and it is necessary for the employee to visit a doctor immediately, instruct or assist the employee to:

Kaiser Oakland Medical Center, Emergency Care

280 W. MacArthur Blvd.

Oakland, CA. 94611

(510) 752-7600

7. MISSED WORK

7.1 Physician Certified Leave of Absence

The employee is required to attach the physician's statement / work status document to the Absence Certificate for all missed days due to an injury or illness upon his/her return to work. The employee's immediate supervisor will submit the Absence Certificate, on the behalf of the employee, in the event

the employee has not returned to work. The employee's immediate supervisor will submit absence certificates to submitted to Human Resources once a week. In order to return to work, the employee is required to submit a physician's statement releasing them to full duty or modified duty, to the immediate supervisor or supervisor's designee and Risk Management.

7.2 Time missed on the day of the injury

An employee's sick, annual or personal leave is not charged for time lost to seek medical treatment **on the day** of the injury. However, employees are expected to return to work after the injury, unless the treating physician provides a statement that the employee is not medically fit to return to work. Upon returning to work, the employee must submit his/her physician's work status report to Risk Management and their supervisor; via facsimile and inter-district mail which then be forwarded to their supervisor/site administrator for review and processing.

7.3 Medical Appointments

If the physician determines that additional appointments are needed (i.e. physician and/or physical therapy), the employee should schedule these appointments outside of work hours. Under Workers' Compensation law, the employer is not required to provide compensation for time taken off during the work day to attend medical appointments.

7.4 Non-Medical Appointments

When an appointment is set on behalf of the injured employee by the TPA's assigned claim examiner, compensation for that day is paid by JT2. The injured employee **is not** responsible to use his/her sick, vacation or any other paid leave. Examples of non-medical appointments could include QME appointments, second opinions, court appearances and/or depositions.

8. WAGE COMPENSATION

8.1 60 Days of Industrial Leave

Per Education Code 45192, each employee with an **accepted workers' compensation claim** is entitled to 60 days of industrial leave. Industrial leave is governed by a physicians note. Deduction of industrial leave will begin the first day an injured employee is off of work **per his/her primary treating physician**. The deduction will end once the employee has returned to work. The injured employee is entitled to **no more** than 60 days per claim. Industrial leave will not accumulate from year to year. However, if the 60 days overlap into the next consecutive fiscal year, the injured employee is entitled to the remaining balance of days. Industrial leave is reduced by one day for each day of authorized absence, partial days **cannot** be deducted from industrial leave. **Total wage compensation cannot exceed 100% of employee normal daily wage or salary.** Risk Management is responsible for tracking an employee's 60 days of industrial leave.

8.2 Temporary Disability (TD)

Per Workers' Compensation law, each employee with an **accepted workers' compensation claim** is entitled to temporary disability payments for each authorized absence (per a physician's note). Once an employee has exhausted their 60 Days of Industrial Leave, JT2 will compensate wages for loss time. JT2 will pay two-thirds (2/3) of the injured employee's daily wages or salary, for each day of authorized absence.

8.3 Integration of Paid Leave with Temporary Disability (TD)

Each employee **with an accepted workers compensation claim** is entitled to integration of paid leaves with temporary disability; for each authorized absence (per a physician's note). Examples of paid leave included Sick Leave and Vacation Leave. The District will automatically integrate the 2/3 of temporary disability with sick leave in 1/3 increments, to insure full wages. Once sick leave has been exhausted, the employee has the option to integrate vacation leave in 1/3 increments. Once the injured employee has exhausted his/her sick **and** vacation leave, they are entitled to Extended Sick leave per the employees collective bargaining agreement. Temporary Disability **can not** be integrated with Extended Sick Leave. **Total wage compensation cannot exceed normal daily wage or salary.**

8.4 Permanent Disability

An injured employee who has been deemed Permanent & Stationary (P&S), has reached his/her Medical Maximum Improvement level (MMI). Once P&S, the injured employee is no longer entitled to temporary disability (TD). Instead, the employee will be paid Permanent Disability (PD). Permanent Disability advances are separate and distinct from work loss time. It is meant to pay the injured employee for his/her loss of earning capacity. It is **not** meant to replace wages while he /she is off work. Permanent disability is calculated by workers compensation law and payments are sent directly to the employee from JT2. If an injured employee takes time off work due to his/her injury or for medical appointments; it is treated like normal loss time. The injured employee's sick, vacation or other available paid leave will be utilized for the time missed.

9. FAMILY AND MEDICAL LEAVE ACT (FMLA)

If an employee experiences a job related injury or illness that meets the definition of an FMLA qualifying event, Human Resources shall notify the employee that she/he is being placed on FMLA leave. The number of unpaid leave day under FMLA an employee is eligible to receive is reduced by the time off covered under Workers' Compensation. Employees must contact Human Resources to acquire additional information regarding FMLA.

10. RETURN TO WORK

To assist injured employees in their recovery, the District provides temporary duty in the form of modified or alternative work whenever possible. Upon release by a physician of the employee to modified duty or restrictions, the employee must submit a physician's statement or work status document certifying such to their immediate supervisor prior to commencing work. The supervisor should forward the physician's statement or work status document to Risk Management immediately upon receipt.



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Berkeley Unified School District

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The District utilizes a Third Party Administrator (TPA) to administer and manage its Return-to-Work program benefits and processes. The District's Return-to-Work TPA is **Norm Peterson & Associates**. If an employee is returned to work with restrictions Norm Peterson & Associates will coordinate alternative with the employee's immediate supervisor and Risk Management. If modified duty still cannot be coordinated by Norm Peterson & Associates, the employee may be placed on temporary disability in accordance with Section 8.2 and applicable Workers Compensation laws. Notification of this decision will be provided to the employee by JT2 Integrated Services.

Temporary/modified duty is generally offered for **Ninety (90)** work days, excluding weekends and District paid holidays. Employees requiring modified duty beyond this period of time, by the physician, may be placed on temporary disability in accordance with applicable Workers' Compensation laws. Notification of this decision will be provided to the employee by JT2 Integrated Services.

Employees electing not to participate in the District's Return to Work Program will not be allowed to utilize his/her vacation leave benefit to cover days missed from work and will be subject to leave policies associated with applicable collective bargaining unit agreements. The District's Workers' Compensation Program will not pay for these related absences.

11. PHYSICIAN PRE-DESIGNATION

In compliance with Workers' Compensation laws, District employees can elect to pre-designate a physician for medical treatment. Pre-designation requests are to be submitted utilizing the forms provided by the Human Resources Department. Employees are responsible for the submission of this form, as well as the authorization from the designated physician. Employees can elect to pre-designate any time prior to an injury occurring.

Employees who **DO NOT** pre-designate a treating physician are to seek treatment at Kaiser Oakland Occupational Center for the first 30 days of an injury. After the 30th day, an employee may elect to utilize his/her own primary treating physician, meeting requirements under Workers Compensation Law. Employees must notify, in writing his or her intention to seek medical treatment from a medical provider outside of the Kaiser Oakland Occupational Center.