



INJURY PREVENTION - *Workers' Compensation quick facts*

What is Workers' Compensation?

Workers' compensation is a form of insurance providing wage replacement and medical benefits to employees injured in the course of employment in exchange for mandatory relinquishment of the employee's right to sue their employer for a wrongful act or an infringement of a right for negligence.

Who are covered under WC in the NYC DOE?

Paraprofessionals, School Nurses, Occupational and Physical Therapists, Administrative Titles and SAPIS. Teachers are covered under - Injury in the Line of Duty (ILOD).

*If you are injured or made sick on the job, WC is your most important resource.
You don't have to be a U.S. citizen to receive WC.*

What are considered work-related injuries?

Any injuries sustain on your employer's property regardless of who's to blame, with the exception of any acts willfully committed by claimant.

Employer's property – means the entire building, playground(s), authorized parking lots, sidewalk around the perimeter of the structure, and traveling between assignments including bussing.

Why should you file for Worker's Compensation?

- It does not cost you anything to file.
- By law, WC is your employer's insurance company's responsibility. The premiums have already been paid. Many employee health plans, (Blue Cross, HMO, etc.) are not responsible for paying for work-related injuries.
 - You don't have to stop working to receive full WC medical benefits.
 - Unlike health insurance, your WC payments and medical care may continue even if you get a new job, retire, or leave the state. And, if you can never return to work, benefits can continue as well.
- You are entitled to WC no matter whose fault the injury/illness was.
- If you use days from your Cumulative Absence Reserve (CAR) because of your injury, you entitled to "restoration of days" when you file for WC.
- You generally cannot sue your employer for job-related injuries.
- You may be eligible for additional monies (Schedule Loss of Use Awards) which are only available if you file for WC.

Required DOE Forms to report and start the process for a Workers' Compensation claim:

Comprehensive Injury Report – CIR: DOE policy states that you have 24 hours to report an injury to your supervisor. However, NYS law gives you 30 days. School payroll secretary - Principal forwards to superintendent, who approves or disapproves.

WCD- 23 Employee's Notice of Injury: File within 10 days of injury and goes to Payroll Secretary.

UFT Incident Report: If the victim of an assault, report this to UFT Victim Support within 24 hours or ASAP.

Required Workers' Compensation Forms to establish a claim:

C-2 Employer's Report: Filed by school payroll secretary via the Payroll Portal within 6 days after an accident occurs, especially, when medical treatment is required. **The New York City Law Department (insurance carrier) will then index the claim with a carrier case number and issue an acceptance letter – NOTICE OF DECISION - which is required by doctors, therapists and pharmacists.**

Secretaries must:

1. Log the incident into OORS
2. Review the CIR fact sheet, C2, DP2002 and Written Statement for signatures and determination
3. **Document C2 in Payroll Portal**
4. Verify timekeeping in SOLAS
5. Upload documents to SOLAS (C2, CIR, DP2002, and Written Statement)

If further assistance is required, please contact the DOE Workers' Compensation Unit at 718-935-2213.

The New York City Law Department has contracted with Carisk Imaging (Formerly Atlantic Imaging Group) of New York, P.C. to be its sole provider for all diagnostic tests..

PLEASE NOTE: FAILURE TO UTILIZE ATLANTIC IMAGING OF NEW YORK, P.C. MAY RESULT IN NON-PAYMENT FOR SERVICES RENDERED.

C-3 Employee's Claim: Filed by employee/claimant with the help of treating physician if needed. You have up to 2 years after date of injury to file a claim or you will lose the stature of limitation.

C-4 Physician's Report: Filed by the WC occupational physician.

Self-Service Online Leave Application System (SOLAS)

What is the Self-Service Online Leave Application System (SOLAS)?

SOLAS is the online system designed to streamline the Leave application process for DOE employees. SOLAS makes it easier to apply for a Leave of Absence and upload the necessary supporting documentation.

BLOODBORNE PATHOGENS (BBP) EXPOSURE PROCEDURE:

The DOE Office of Occupational Safety and Health will provide information regarding post-exposure evaluation and follow-up procedures.

- Contact Site Administrator (SESA) and report the incident.
- GET MEDICAL EVALUATION IMMEDIATELY – and ask for a Source Individual Report Form from your site administrator.
- DOE/OSH hotline: (718) 935-2319 – from 9:00 am to 4:30 pm. fax: (718) 935-4682

WORKERS' COMPENSATION BENEFITS:

Wages are calculated on degree of disability

1. **Total disability = 2/3 of average weekly wage** (@ job title at the date of incident – up to max. rate, which is recalculated every July.

- Total disability = unable to perform any work of any kind, either full or part time

2. **Partial disability**

- Marked, Moderate, Mild
 - i. Marked disability = $\frac{1}{2}$ of average wkly. wage (up to max.)
 - ii. Moderate disability = $\frac{1}{3}$ of average wkly. wage (up to max.)
 - iii. Mild disability = $\frac{1}{6}$ of average wkly. wage (up to max)

Monies moving toward your award during the calculation will minus any attorney's fee and payment(s) to employer for reimbursement if the case dictates.

Other Benefits

New York State Disability:

- You cannot collect both disability and WC at the same time, therefore, if you are getting disability and then wins a WC case – disability will have to be paid back.

*(After a seven-calendar-day waiting period, you receive 50 percent of your average salary for the eight weeks prior to disability, up to the maximum benefit established under the New York State Disability Benefits Law, **currently \$170 per week**. You can receive benefits **up to a maximum of 26 weeks**.)*

Social Security Insurance:

- You are able to collect both SSI and WC at the same time – it is cap at 8%, has no time limit, and also benefit your family (offspring(s)) as well but, takes up to 18 months before approval.

Workers' Comp. – Independent Medical Examiner (IME):

TRUTH: AN INJURED WORKER HAS SEVERAL THINGS THEY CAN DO AT AN EXAMINATION -

When YOU received a letter from your insurance carrier (New York City Law Department) saying they wanted you to be examined by their doctor.

The insurance carrier doctor is not YOUR friend. He/She is a private consultant paid for by the carrier. However, there are ways to make sure that you are prepared to attend one of these examinations.

Under Worker's Compensation you have the following rights under the law:

- **You have the right to bring a family member or friend with you to the examination.**

This is important because it allows for a witness to testify at court about the validity of the examination and to dispute tests that the doctor may claim to have done.

- **You are permitted to audiotape or videotape the examination.**

There is nothing in the law that requires the claimant to tell the insurance company doctor that you intend to tape the examination.

- **You must bring all medical reports that you have to the doctor so that the consultant cannot say he/she did not have certain medicals. You must also be open and honest about any questions asked about prior conditions.**

This is a trap by insurance carriers where they try to get an injured worker to deny prior accidents and then use those statements against them at Court.

Workers' Compensation and Unemployment Benefits:

If you are receiving workers' compensation, but you are available and physically able to perform work, you may be eligible for unemployment insurance benefits. However, your weekly unemployment benefit rate may be reduced. The total weekly amount of your workers' compensation and unemployment insurance benefits cannot exceed your average weekly wage in the base period.

When filing a claim for benefits, you should be prepared to send to the Department of Labor copies of the **Workers' Compensation Form C-8** (Notice that Payment of Compensation for Disability has been Stopped or Modified) and a medical statement signed by your physician, attesting that you are able to work.

NEW YORK CITY BOARD OF EDUCATION
Regulation of the Chancellor - Number: C-603

6. Prohibition on Gainful Employment During Absence or Leave

a. Except with the explicit, written approval of the Chancellor or the appropriate Superintendent or, in accordance with the specific terms and conditions of the grant of leave, no employee may engage in remunerative employment of any type or receive compensation, directly or indirectly, or enter into any agreement, express or implied, during the period of any type of leave of absence without pay, maternity leave, child care leave or sabbatical leave during periods of excused absence or leave of absence.

Termination Notice from Employer:

Under the New York State Civil Service Law – CSL § 71 (Length of Leave) –

Any employee who is disabled due to an injury that is compensable under the Workers' Compensation Law is entitled to a cumulative leave of absence, while actually disabled, for a period of one year (cumulative total of at least one year, even if such absences are intermittent whereby the employee returns to work and then goes on Section 71 leave again because of the same injury or disease) or, if disabled due to an assault on the job for a period of two years, unless the employee is found to be permanently disabled from performing the duties of the job.

The federal **Family and Medical Leave Act (FMLA)** requires some employers to provide up to 12 weeks of unpaid leave during a twelve-month period to an employee who cannot work because of a serious health condition.

Please be aware that you have the right to apply to the Department of Education (65 Court Street, Brooklyn, NY – 5th Floor) for reinstatement to duty if you are medically fit. **Such application must be made before the effective date of the termination** and if you choose to do so you are obligated to submit to a medical examination to determine fitness to perform the duties of your position.

You also have the right to apply to the Civil Service Department within one year of the end of your disability for reinstatement to the position if vacant, to a similar position, or to a preferred list, pursuant to section 71 of the Civil Service Law of the State of New York.

Can YOU still get medical treatment for my work-related injury after returning to work?

Yes. You can also ask to be paid for your travel costs to and from treatment. You can be repaid for the cost of medications and some other items prescribed by your doctor as well.

Workers' Compensation & the DOE Medical Bureau – 2568:

Q: What are the ramifications of the fitness decisions rendered by the Medical Bureau doctors under these circumstances?

A: The decisions by the DOE Medical Bureau doctors are a non-binding opinion. The Worker's Compensation doctor's decision prevails.

UFT Welfare Fund – Workers’ Compensation & Disability Claim:

Under the Rules and Regulations of the UFT Welfare Fund, in order to determine your eligibility for disability benefits in conjunction with your Workers’ Compensation benefits, please submit the following documents:

- A copy of your Leave of Absence approved by the Department of Education
- A copy of the Workers’ Compensation “NOTICE OF DECISION” LETTER(S)
- A copy of the Workers’ Compensation pay stub(s)

Upon receipt of these documents, the UFT Welfare Fund will then review your claim for UFT Welfare Fund Disability benefits

What Happens If you Resign From your Job While on Workers' Comp?

Workers' compensation coverage provides assistive benefits to an injured worker. Benefits include medical treatment and payments for lost time at work. While recuperating from injury you are entitled to receive these benefits. But **if you quit while receiving temporary disability payments, you may no longer be eligible to receive payments – this is described as voluntarily removal from service.**

Considerations:

- If you are receiving **temporary disability-TD** payments, unless you have another job, it's a good idea to wait until you've been released to return to work before quitting. This ensures you receive the maximum benefits entitled to you as an injured worker under law.
- It is best to consult with a workers' compensation attorney familiar with the laws if you have a permanent disability, to ensure that you receive the maximum benefits.