

CITY OF DENTON

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE

SECTION: FINANCE	REFERENCE NUMBER: 409.01
SUBJECT: HUMAN RESOURCES/RISK MANAGEMENT	INITIAL EFFECTIVE DATE: 11/01/94
TITLE: WORKERS' COMPENSATION/SALARY CONTINUATION PROGRAM	LAST REVISION DATE: 07/12/11

POLICY STATEMENT:

It is the City of Denton's policy to provide workers' compensation benefits to regular full-time, regular part-time, and temporary/seasonal employees, as detailed in Texas Labor Code, Title 5, Subtitle A, Texas Workers' Compensation Act and Subtitle C, Chapter 504 (collectively referred to as the "Act"). This policy seeks to establish procedures which ensure the efficient application of the Act. The City also seeks to establish procedures which ensure the fair application of a salary continuation program for eligible full-time employees who are injured on the job and are unable to perform their regular duties as a result of these injuries.

ADMINISTRATIVE PROCEDURES:

I. DEFINITIONS

- A. "Abbreviated work day" means the employee is released to return to duty but for less hours per day than is usual for the position (i.e. four hours versus a full eight-hour shift).
- B. "Act" means Tex. Labor Code Chapter 504 (Vernon Supp. 1995), or its successor, as same may be amended from time to time.
- C. "Business necessity" terminations occur when a division's productivity is adversely affected because an employee is unable to perform his regular duties as a result of an on-the-job injury (procedure addressed in "Off Duty Injury or Illness Policy" #107.05).
- D. "Course and scope of employment" means an activity of any kind or character that is related to and originates in the work, business, trade, or profession of the employer, and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer.
- E. "Full Duty Status" shall mean that the employee has been certified by his or her physician to assume his or her normal job duties without restrictions.

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- F. "Injury" means damage or harm to the physical structure of the body and those diseases or infections naturally resulting from the damage or harm. The term also includes occupational diseases.
- G. "Light duty" means temporary work, which can be accomplished by an injured employee within the stipulated medical or physical limitations, and without exposing others to the risk of being harmed. Light duty, when accomplished, will contribute to the fulfillment of the mission of the department as distinguished from "make work" assignments created solely to accommodate injured employees.
- H. "Net after tax pay" shall mean the employee's regular rate of pay after deductions for income tax withholding and social security.
- I. "Occupational disease" means a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body. The term includes other diseases or infections that naturally result from the work-related disease.

The term does not include an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease.

- J. "Regular, full-time employees" are employees budgeted to work at least forty (40) hours per week on a continuing basis.

II. GENERAL RULES

- A. The City of Denton shall comply with, and provide all benefits as prescribed in, the Act.
- B. The Act applies to regular full-time, regular part-time, and temporary/seasonal employees. The Act applies only to physical injuries and occupational diseases that arise out of and in the course of employment. It does not apply to natural illnesses, or ordinary diseases of life, which are not caused or aggravated by any such physical injury.
- C. An employee who is injured on the job must notify his or her supervisor immediately unless the injury is of a nature that prohibits notification, such as unconsciousness.
- D. Risk Management shall be responsible for the overall supervision, coordination, and implementation of the City's Workers' Compensation Program. All questions relative to the specific application of the Act should be directed to Risk Management, who will coordinate with the Legal and Human Resources Departments, as appropriate.

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- E. Additionally, questions related to the Act may be directed to the Texas Department of Insurance, or the Ombudsman at the local office of the Texas Department of Insurance Division of Workers' Compensation.
- F. In some cases, the position of an employee who has been injured on the job may need to be filled due to business necessity. In such cases, his or her benefits under the Act will not be affected. Terminations will be carried out in accordance with State law and any policies of the City (refer to "Off Duty Injury or Illness Policy" #107.05 for procedure).
- G. Employees who have been injured on the job and who engage in any secondary employment without written approval of the Risk Manager or the Director of Human Resources shall be subject to disciplinary action and/or loss of salary continuation benefits.

III. SUPERVISOR'S RESPONSIBILITIES

- A. The supervisor shall ensure that all occupational injuries are immediately reported to Risk Management.
- B. The supervisor shall arrange for personal contact with all employees who suffer lost time injuries. The supervisor or his designee is encouraged to contact an injured employee within forty-eight (48) hours after the initial report of injury. Concern by the supervisor for the morale and well-being of an injured employee can partially alleviate anxieties. Failure to maintain regular contact with an injured employee may be interpreted by that employee as a lack of concern on the part of the City.
- C. The supervisor should analyze all accident reports and take appropriate, corrective action to minimize the re-occurrence of such accidents.
- D. The City Accident Injury Report (available on the City Intranet under Risk Management) must be completed by the department and received by Risk Management as soon as possible, but no later than three (3) calendar days after any occupational injury.
- E. The supervisor must notify Risk Management whenever an injured employee's duty status changes from working to non-working (i.e., a previously injured employee who returns to work and begins to lose time again due to the same injury) or non-working to working status. These circumstances may recur numerous times and, if so, a separate notification must be made at each status change.

The initiation and discontinuance of Workers' Compensation benefits is triggered by the timely notification by the supervisor. Therefore it is imperative that notification of a status change be made as soon as possible.

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- F. If an employee is seriously injured or dies, Risk Management must be notified immediately. If the accident occurs other than during normal working hours, the department should immediately notify the Risk Manager or the Safety & Claims Administrator by cell phone.
- G. Department Directors shall devote particular attention to making sure that all provisions of this policy are understood by both supervisors and employees in their departments. It is of particular importance that Department Directors and supervisory personnel require employees returning from an examination or treatment to deliver a completed copy of the DWC-73 form as specified by the Act.
- H. Each supervisor shall notify any injured employee of his or her obligation to contact the supervisor at least once each week, and that failure to do so could subject the employee to disciplinary action and/or loss of salary continuation benefits.

IV. INDIVIDUAL EMPLOYEES' RESPONSIBILITIES

- A. Each employee who is injured on the job must immediately notify his or her supervisor when the injury occurs, unless the injury is of a nature that prohibits such notification. The Act requires an employee to notify his or her employer within thirty (30) calendar days of the date of the injury and to report such injury to the Texas Department of Insurance Division of Workers' Compensation (DWC) within one (1) year. The DWC will send forms to the employee to be completed. An employee may forfeit his or her rights to all benefits if he or she fails to notify his or her supervisor or the DWC.
- B. An employee who is on leave due to an on-the-job injury must contact his or her supervisor at least once each week. If the employee is unable to make contact personally, he or she shall have someone contact his or her supervisor on his or her behalf. The City must be aware of the employee's status in order to plan and assign work duties and responsibilities in an efficient manner.
- C. An employee who fails to contact his or her supervisor in accordance with the above requirements may be subject to disciplinary action and/or loss of salary continuation benefits.

V. NON-CIVIL SERVICE EMPLOYEES' EMPLOYMENT STATUS

- A. This section does not apply to employees governed by Chapter 143 of the Texas Local Government Code, as amended.
- B. The employment status of an employee who suffers an occupational injury or illness

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shall be governed in accordance with the following provisions:

1. An employee is required to return to work when released to do so by the physician. Failure to return to work when released may result in appropriate disciplinary action and/or the loss of salary continuation benefits.
2. An employee who is released to return to work in less than a full-duty status by the physician may be required to work in a position or department other than his or her original position or department. Work duties shall be assigned in accordance with the employee's limitations and the best interests of the City.
3. No less-than-full-duty (light duty) assignments will extend beyond 960 total hours.

VI. SALARY CONTINUATION

- A. In addition to the benefits prescribed under the Act, the City shall provide salary continuation benefits to all eligible full-time employees.
- B. Employees in the Fire and Police Departments who are subject to Chapter 143 of the Texas Local Government Code, as amended, are entitled under Chapter 143 to a leave of absence for an illness or injury related to the person's line of duty in lieu of a wage supplement/salary continuation. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury, up to a period of one year. The City Council may extend this leave at full or reduced pay. Barring such action, the employee may then use accumulated sick leave, vacation leave, or other accrued benefits.
- C. For eligible non-civil service, full-time employees, salary continuation benefits will begin on the first full day of lost time following the injury. Salary continuation benefits will be paid for those hours an eligible employee is unable to work due to an on-the-job injury or illness up to a maximum of 960 hours. To receive this benefit, an employee must meet the following conditions:
 1. The employee must obtain treatment from a physician approved by the City and must present a *DWC-73* form from the treating physician stating that the employee is unable to return to work.
 2. The employee must be a regular, full-time employee. Temporary/seasonal, part-time, and employees who have been employed for less than six consecutive months in a full-time capacity, are not eligible for salary continuation.
- D. The total amount paid to an injured employee for salary continuation benefits will not exceed the full net regular after-tax pay he or she would have received for such period at

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his or her regular rate of pay.

- E. Employees receiving salary continuation benefits shall continue to accrue vacation and sick leave at regular rates, and maintain all other benefits allocated with their employment, for up to 960 hours, provided the absence is necessary and prescribed in writing by a physician.
- F. Employees who are able to perform "light duties" on a full-time basis as determined by the treating physician will be required to do so if a suitable job activity is available. Employees in this status may be assigned to another Department within the City.
- G. Employees who are able to perform their regular duties on an "abbreviated work day," as determined by the physician, will be required to do so if suitable job duties are available and such schedule can be accommodated by the City. Salary continuation benefits will be pro-rated accordingly.
- H. Employees who are not eligible for salary continuation, whose salary continuation benefits have ended, or whose payroll check is less than their payroll deductions, are responsible for paying all benefit premiums for themselves (and any covered dependents), credit union loans, and other deductions by means other than their payroll. It is the employee's responsibility to make the appropriate arrangements.
- I. Salary continuation benefits shall not be paid under the following conditions:
 - 1. When an employee becomes unable to perform regular or full-time work as a result of any injury or illness sustained prior to the date of employment with the City. This includes any later aggravation or re-injury while on the job with the City.
 - 2. When an employee becomes unable to perform regular or full-time work as a result of an injury or illness sustained while off duty. This includes any later aggravation or re-injury while on the job with the City.
 - 3. When an employee is injured while traveling to or from work, engaging in "horseplay," or while they are "intoxicated," as these terms are defined by the Act.
 - 4. When an employee is injured while failing to follow established City, Department, or Division safety policies and procedures.
- J. An employee shall forfeit all rights to any continued salary continuation benefits, and will only be able to receive the benefits available under the Act, if he or she:
 - 1. Fails to give written consent for the release of all pertinent medical information to the City, or the City's designated agent, when requested, or later withdraws consent

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while receiving salary continuation benefits.

2. Is found to be working for any compensation at any job not approved in writing by the Director of Human Resources or the Risk Manager and not specifically recommended by the treating physician.
 3. Resigns for any reason while receiving salary continuation benefits.
 4. Is discharged for any reason while receiving salary continuation benefits.
 5. Consistently fails or refuses to comply with, follow, or consistently disregards or violates the treating physician's instructions regarding treatment of his or her injury or illness.
 6. Retires or dies while receiving salary continuation benefits.
 7. Refuses to perform light, partial, or part-time duty when offered by the City and authorized by the treating physician.
 8. Refuses to accept or perform a different job with the City offered by the Director of Human Resources, or designee, when it is within the employee's physical capacity and if he or she is qualified or can be trained.
 9. Falsifies or misrepresents his or her physical condition or capacity while receiving salary continuation benefits.
 10. Refuses to return to duty after he or she has been released to regular duty, light duty or abbreviated duty by the physician.
 11. Fails to contact and notify his or her immediate supervisor on a weekly basis of his or her condition and expected date of return.
 12. Refuses to be treated by a physician approved by the City or fails to provide certified documentation from the treating physician stating that he or she is not able to return to work.
- K. Salary continuation benefits will not be paid for any relapse or re-injury after the expiration of one year from the date of the original injury.

VII. EXPIRATION OF SALARY CONTINUATION BENEFITS

- A. This section does not apply to employees subject to Chapter 143 of the Texas Local

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Government Code, as amended.

- B. Employees who are unable to return to duty after expiration of salary continuation benefits will be placed on the appropriate workers' compensation pay code.
- C. After the expiration of salary continuation benefits employees may elect to use accrued leave on a pro-rated basis to supplement Workers' Compensation payments. Total pay will not exceed the employee's net pre-injury wages.
- D. After the expiration of salary continuation benefits the employees' employment status will be managed in accordance with all other applicable City policies and directives.
- E. Paid leave (sick leave and vacation) will cease to accrue after the expiration of salary continuation benefits.
- F. The expiration of salary continuation benefits will not affect the employee's benefits under the Act.

VIII. FAMILY AND MEDICAL LEAVE

- A. All benefits paid under the Act and/or this policy shall be administered concurrently with the Family and Medical Leave policy (#107.04).
- B. Employees who qualify for family and medical leave must comply with all provisions of the Family and Medical Leave policy (#107.04).