

WORKERS' COMPENSATION POLICY

Purpose

The purpose of this policy is to establish responsibilities and rights of the employee and employer as they pertain to Louisiana Worker's Compensation Laws (Chapter 10, Revised Statute 23).

Definitions

The following terms shall be given the meaning ascribed to them in this policy (LA RS 23:1021, 2004):

1. "Accident" means an unexpected or unforeseen actual, identifiable, precipitous event happening suddenly or violently, with or without human fault, and directly producing at the time objective findings of an injury which is more than simply a gradual deterioration or progressive degeneration.
2. "Health care provider" means a hospital, a person, corporation, facility, or institution licensed by the state to provide health care or professional services as a physician, hospital, dentist, registered or licensed practical nurse, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, psychologist, graduate social worker or licensed clinical social worker, psychiatrist, or licensed professional counselor, and any officer, employee, or agent thereby acting in the course and scope of his employment.
3. "Injury" and "personal injuries" include only injuries by violence to the physical structure of the body and such disease or infections as naturally result there from. These terms shall in no case be construed to include any other form of disease or derangement, however caused or contracted.
 - a. Mental injury caused by mental stress. Mental injury or illness resulting from work-related stress shall not be considered a personal injury by accident arising out of and in the course of employment and is not compensable pursuant to this policy, unless the mental injury was the result of a sudden, unexpected, and extraordinary stress related to the employment and is demonstrated by clear and convincing evidence.
 - b. Mental injury caused by physical injury. A mental injury or illness caused by a physical injury to the employee's body shall not be considered a personal injury by accident arising out of and in the course of employment and is not compensable pursuant to this policy unless it is demonstrated by clear and convincing evidence.
 - c. No mental injury or illness shall be compensable under either Subparagraph (b) or (c) unless the mental injury or illness is diagnosed by a licensed psychiatrist or psychologist and the diagnosis of the condition meets the criteria as established in the most current issue of the Diagnostic and Statistical Manual of Mental Disorders presented by the American Psychiatric Association.
 - d. Heart-related or per vascular injuries. A heart-related or per vascular injury, illness, or death shall not be considered a personal injury by accident arising out of and in the

course of employment and is not compensable pursuant to this policy unless it is demonstrated by clear and convincing evidence that:

1. The physical work stress was extraordinary and unusual in comparison to the stress or exertion experienced by the average employee in that occupation; and
 2. The physical work stress or exertion, and not some other source of stress or preexisting condition, was the predominant and major cause of the heart-related or per vascular injury, illness, or death.
4. "Office" means the office of workers' compensation administration established pursuant to R.S. 23:1291.
 5. "Part-time employee" means an employee who as a condition of his hiring knowingly accepts employment that (a) customarily provides for less than forty hours per work week, and (b) that is classified by the employer as a part-time position.
 6. "Wages" means average weekly wage at the time of the accident. The average weekly wage shall be determined as follows:
 - a. Hourly wages.
 1. If the employee is paid on an hourly basis and the employee is employed for forty hours or more, his hourly wage rate multiplied by the average actual hours worked in the four full weeks preceding the date of the accident or forty hours, whichever is greater; or
 2. If the employee is paid on an hourly basis and the employee was offered employment for forty hours or more but regularly, and at his own discretion, works less than forty hours per week for whatever reason, then, the average of his total earnings per week for the four full weeks preceding the date of the accident; or
 3. If the employee is paid on an hourly basis and the employee is a part-time employee, his hourly wage rate multiplied by the average actual hours worked in the four full weeks preceding the date of the injury.
 4. A part-time employee, as defined in R.S. 23:1021(9) and who is employed by two or more different employers in two or more successive employments, shall be entitled to receive benefits as follows:
 - i. If an employee is employed by two or more different employers in two or more successive employments and the employee incurs a compensable injury under the provisions of this policy in one of the employments, the employer in whose service the employee was injured shall pay the benefits due the employee as provided in this policy.
 - ii. If the employee is a part-time employee in one of the successive employments, is injured in that employment, but as a result of the injury also incurs loss of income from other successive employments, that employee shall be entitled to benefits computed by determining wages under the provisions of this subsection using his hourly rate in employment at the time of injury and using the total hours worked for all employers of the part-time

employee, but not to exceed his average, actual weekly hours worked or forty hours weekly, whichever is less.

5. For an employee in seasonal employment, his annual income divided by fifty-two.
 - i. For purposes of this Subparagraph, seasonal employment shall be any employment customarily operating only during regularly recurring periods of less than forty-four weeks annually.
 - ii. If the employee was not engaged in the seasonal employment more than one year prior to the accident, his annual income shall be the average annual income of other employees of the same or most similar class working in the same or most similar employment for the same employer or, in the event that the employee was the only individual engaged in that specific employment, then his annual income shall be the average annual income of other employees of the same or most similar class working for a neighboring employer engaged in the same or similar employment.
- b. Monthly wages. If the employee is paid on a monthly basis, his monthly salary multiplied by twelve then divided by fifty-two.
- c. Annual wages. If the employee is employed at an annual salary, his annual salary divided by fifty-two.
- d. Other wages. If the employee is employed on a unit, piecework, commission, or other basis, his gross earnings from the employer for the twenty-six week period immediately preceding the accident divided by the number of days the employee actually worked for the employer during said twenty-six week period and multiplied by the average number of days worked per week; however, if such an employee has worked for the employer for less than a twenty-six week period immediately preceding the accident, his gross earnings from the employer for the period immediately preceding the accident divided by the number of days the employee actually worked for the employer during said period and multiplied by the average number of days worked per week.
- e. Income tax. In the determination of "wages" and the average weekly wage at the time of the accident, no amount shall be included for any benefit or form of compensation which is not taxable to an employee for federal income tax purposes; however, any amount withheld by the employer to fund any nontaxable or tax-deferred benefit provided by the employer and which was elected by the employee in lieu of taxable earnings shall be included in the calculation of the employee's wage and average weekly wage including but not limited to any amount withheld by the employer to fund any health insurance benefit provided by the employer and which was elected by the employee in lieu of taxable earnings shall be included in the calculation of the employee's wage and average weekly wage.
- f. Date of accident. In occupational disease claims the date of the accident for purposes of determining the employee's average weekly wage shall be the date of the employee's last employment with the employer from whom benefits are claimed or the date of his last injurious exposure to conditions in his employment, whichever date occurs later.

Policy

University employees are covered by workers' compensation, which provides partial salary payments and medical expenses in the event of a qualified work-related injury or illness. The amount of workers' compensation benefits payable and the duration of payments depend on the nature of the injury or illness and the employee's salary at the time of the injury or illness. In general, usual and customary medical expenses incurred in connection with an injury or illness is paid and partial salary payments are provided after the employee has met the seven-day waiting period.

All University employees, regardless of their length of employment, are covered by workers' compensation if injured or becomes ill due to work-related activities. An employee who intentionally causes injury or illness to himself/herself or is injured while intentionally causing injury/illness to another employee is not eligible for workers' compensation benefits. Employees who are covered under workers' compensation should be physically and mentally able to perform light/transitional duty jobs.

The University will work to accommodate employees under the University's "Return to Work Policy" (<https://webservices.ulm.edu/policies/document.php?i=47466>).

Retaliation of employees who file a workers' compensation claim will not be tolerated and can result in disciplinary actions, up to and including termination.

Civil Service Rule 11.21

11.21 Workers' Compensation Payments

When an employee is absent from work due to disabilities for which he is entitled to workers' compensation he:

1. shall, to the extent of the amount accrued to his credit, be granted sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary.
2. may, to the extent of the amount accrued to his credit, be granted annual leave or a combination of annual and sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary.
3. may be granted leave without pay.

Reporting Injury

All work related injuries or illnesses must be reported to the employee's department/budget unit head, and the Human Resources Office. Supervisors are responsible to ensure the "Employee Report of Injury/Illness" and the "Incident/Accident Investigation Form DA2000" are completed (<http://www.ulm.edu/safety/manual/caccidentinvestigation.htm>) and the employee must submit to a medical examination if needed. To be eligible for workers' compensation benefits the employee must report the injury or illness within 30 calendar days of the injury or illness.

Serious injuries or illnesses must be reported to the University Police, who will arrange for necessary transportation by obtaining the services of an ambulance. Only the University Police are authorized to call for an ambulance. Minor work related injuries or illnesses will be referred to the Student Health Center where first aid will be administered (Goss, 2002). In all cases that are true emergencies (life or limb threatening) the most important issue to remember is to get the employee immediate medical care.

In the event that the employee does require medical care, the employee is entitled to select a physician of choice for treatment. The treating physician may refer the injured employee to another doctor specializing in another area of medicine and in some cases to physical therapy. The employee cannot travel outside the State of Louisiana to receive medical treatment unless it is approved by the Office of Risk Management. The University or the Office of Risk Management may choose other physicians and arrange examinations, which the employee would be required to attend for a second opinion (LAWORKS, 2003). If there is a situation where the employee's selected physician and the ORM/University's selected physician do not agree on the employee's medical condition, the employee may be entitled to an Independent Medical Examination. Written requests for an Independent Medical Examination should be submitted to the Medical Services Section of the Office of Workers' Compensation Administration on form LDOL-WC 1015.

The employee's supervisor and/or department/unit head is required to immediately notify the Environmental Safety Officer and the Department of Human Resources of the injury or illness. This ensures that the University can assist in obtaining appropriate medical treatment. Employees are required to assist with preparation of the "Employee Report of Injury/Illness" form and the "Incident/Accident Investigation Form DA2000." Accident/incident forms and Office of Risk Management/Loss Prevention forms are required whether or not the employee requires medical treatment. The original copy of the University's Accident Report should be sent to Human Resources with a copy sent to the Environmental Safety Officer.

The Human Resources Department must be kept informed of all aspects of medical care to properly notify the Division of Administration-Office of Risk Management and the Office of Workers' Compensation, when applicable as outlined by LA Workers' Compensation Law. Any billings for workers' compensation injuries or illness must be submitted to the Human Resources Office, not to the Office of Workers' Compensation Administration.

Failure to follow this procedure may result in the appropriate Workers' Compensation report not being filed in accordance with the law, which may consequently jeopardize the employee's right to benefits in connection with the injury or illness. Questions regarding Worker's Compensation should be directed to the Human Resources Office.

The University can be fined if found to be in violation of reporting requirements. Fines for violating reporting requirements will be charged to the department at fault.

Safety Equipment

All employees are required to use safety equipment as provided by the University and instructor by their supervisor. Additionally, employees must follow all safety rules and regulations as outlined in employees must follow all safety rules and regulations as outlined in the University's Safety Manual and as per Job Safety Analysis and departmental procedures. Employees may not be eligible for workers' compensation if it is determined the employee:

1. intentionally injured him/herself or was injured while intentionally injuring another employee;
2. was intoxicated at the time of the injury; or
3. deliberately fail to use adequate guard or protection against the accident.

FMLA

Employees requiring leave, due to a work related injury or illness will be placed on FMLA Leave under the provisions established in the University's Family Medical Leave Act Policy (<https://webservices.ulm.edu/policies/document.php?i=20187>). Any occupational injury requiring inpatient or ongoing treatment determined a "serious health condition" should be considered FMLA. The Report of Injury form and/or the physician's medical certification may be used to determine qualifying leave. The Department of Human Resources will complete the appropriate paperwork and notify the employee, Workers' Compensation leave will run concurrently with and be treated against the employee's FMLA entitlement of 12 weeks. The employee's supervisor will complete the appropriate payroll action form for beginning and ending FMLA.

Compensation Benefits

Employees are entitled to all necessary and reasonable medical expenses associated with the injury as provided by Louisiana Workers' Compensation Law. Workers' Compensation benefits are computed at 66-2/3% of average weekly earnings or the maximum amount as outlined in Louisiana R.S. 23:1202 of the Louisiana Workers' Compensation Act.

The employee may become eligible for Temporary Total Benefits if the claim is deemed compensable, after the doctor certifies the employee as being unable to work and the employee has been out for 7-days due to the work related injury or illness. Benefits will be paid beginning the eighth day after the injury. The initial Workers' Compensation check should be received within 14 days after the employee notifies the employer of the injury or illness. Wages lost during the first seven days after the injury are not replaced unless the employee is off the job for more than 42 days.

Note: The employee cannot receive the Workers' Compensation Check and a full payroll check.

Payment for leave buy back

The employee will be required to use his/her accrued sick leave to stay in full pay status with the University. The check for the employee's Temporary Total Benefits is sent to the Department of Human Resources in the employee's name. The check will be receipted by the Controller's Office and at that time the employee is asked to sign the check over to the University.

The amount of leave that the check will buy back is determined by dividing the employees' hourly rate of pay at the time of the accident into the amount of the check. The amount of the check then converts to leave time and that amount of time is added back to the employee's existing leave balances. If the employee does not have a sufficient amount of leave to use, then the employee may receive the worker's compensation check.

Fraud

“Workers’ Compensation fraud is the willful or intentional act of making a false statement or representation in order to obtain or defeat any benefit payment” (LAWORKS). Workers’ Compensation fraud cost the insurance industry, employers and employees billions of dollars each year. Budget unit/heads and supervisors who suspect Workers’ Compensation fraud should report all suspect accidents and injuries to the Department of Human Resources. Any employee filing false claims will be terminated immediately and may be subject to criminal and/or civil penalties.