



INJURY LEAVE (ON THE JOB)

I. PURPOSE

To provide income protection to employees injured while performing their job duties.

II. SCOPE

This policy applies to all City employees.

III. POLICY

An employee injured in the line of duty shall receive worker's compensation or injury leave benefits under the terms and conditions prescribed in the applicable programs and as required by law.

IV. PROCEDURE

- A. If the workers' compensation injury meets the criteria for a serious health condition, injury leave will run concurrently with FMLA leave (See [Family and Medical Leave # 322](#)).
- B. An employee who sustains an injury or illness in the performance of their duties will fully and promptly report, however minor, to his/her supervisor as soon as possible, but no later than the next business day. Written notification must be received in the Human Resources department within 48 hours of the incident in order for injury Leave to be paid.
- C. Employees in safety sensitive positions, as identified in the FITNESS FOR DUTY GUIDELINES, who suffer work-related injuries or illnesses that require medical attention may be subject to alcohol and controlled substance testing
- D. Time lost because of a substantiated and documented work related injury sustained during the course of employment shall not be charged against the employee's sick, vacation, holiday, or personal leave.
- E. During such absence, sick leave and vacation shall continue to accumulate.



- F. The Human Resources Department will coordinate with the employee's physician to determine whether the injury would allow an employee to perform modified work or other duties. See [Modified Duty #731](#).
- G. Employees who are on leave will update their supervisor and/or Human Resources at regular intervals of the employee's status. Failure to maintain contact will be viewed as an unwillingness to cooperate and addressed through corrective action.
- H. An employee who is unable to perform the essential functions of his/her position due to a disability, injury, illness, or medical condition (and reasonable accommodation is not possible) is not guaranteed a return to his/her position at the completion of his/her injury or illness. If after consultation with Human Resources, a supervisor determines that a department's or division's productivity or ability to deliver services is adversely affected because of the vacancy in the position, the employee may be administratively removed from his/her position during his/her leave. When an employee who has been administratively removed from his/her position is able to return to work with the appropriate medical releases, that employee will be considered for any open position in the City for which that employee is qualified. Employees who are not disabled as defined by ADA will be required to compete for open positions. See [Family and Medical Leave #322](#).

I. Programs

1. *Workers' Compensation*

Workers' Compensation Law provides that an employee who suffers a disability that results in lost duty days due to an injury while in the course of their employment is entitled to "Income Benefits".

Disability occurs when the work-related injury or illness causes an employee to lose the ability to earn their pre-injury wage. Disability refers to an employee's inability to earn an income, not to a physical handicap.

These income benefits are calculated at a rate of at least 70% of the employee's weekly income prior to the injury. The worker must be disabled by the injury for at least seven (7) days to be eligible for income benefits. The employee becomes eligible for temporary income benefits on the eighth day of disability. By law, workers' compensation benefits must be paid directly to the employee.



2. *City Injury Leave Benefit*

This benefit provides an eligible employee the added security of temporarily receiving no reduction or interruption in salary for the initial six (6) weeks of the injury leave.

- a. Injury leave benefits will begin from the time an employee begins to lose time due to an on-the-job injury.
- b. An employee on injury leave will continue to collect full salary payment from the City until they return to work or for a period of time not to exceed six (6) weeks.
- c. If the duration of the employee's leave exceeds initial six (6) weeks, either continuously or intermittently, then the employee will no longer be compensated at their full salary. The employee, if eligible, will continue to receive their paycheck from the City, minus authorized deductions, at the 70 percent payment rate paid by the City's worker's compensation insurance carrier. In addition, the employee will be allowed to use any accrued benefit time (sick, vacation, or comp time) to supplement the 70 percent payment from the City's worker's compensation insurance carrier, in order to receive a full salary.
- d. An employee on injury leave is required to turn over to the City all checks paid to him/her for income benefits from Workers' Compensation.
- e. The City will monitor payments made to the employee by the workers' compensation insurance carrier to ensure that all disbursed salary related checks have been turned over to the City.
- f. Any failure by the employee to turn over the checks paid to him/her for workers' compensation income benefits will result in the City withholding any injury leave pay due the employee and the employee will, by such action, forfeit any and all further injury leave pay or benefits.



- g. An employee on injury leave may be required to undergo regular examinations by a physician of the City's choice. The employee may be assigned modified duty. See [Modified Duty #731](#).

J. Business Necessity Termination Due to Uniform Absence Control

1. An employee may be terminated as a business necessity due to uniform absence control when the employee has been unable to perform the essential functions of his/her job with or without reasonable accommodation for a period of thirteen (13) weeks within a twelve-month period. This time need not be consecutive. This applies to both on-the-job and off-the-job injuries or illnesses for employee who have completed their introductory period. The City will use a "rolling" twelve month period measured backward from the first date an employee uses any leave for either on-the-job or off-the-job injury or illness in order to calculate the thirteen weeks. This excludes civil service employees. Civil Service employees should refer to Local Government Code , Chapter 143 and the Rules and Regulations of the Civil Service Commission for the City of Georgetown for guidelines on injury leaves.
2. Supervisors shall obtain approval from the Director of Human Resources or his/her designee prior to initiating a termination due to uniform absence control. The Human Resources Department shall also be consulted if any absence is due to an injury that occurred on the job. In the case of an employee with a disability as determined by the ADA, termination would not be considered unless no reasonable accommodation (which would not cause undue hardship to the organization or pose a direct threat to the health or safety of the employee or others) exists that would enable the employee to perform the essential functions of his/her position, and no job reassignment is available.
3. If after reviewing these factors, the supervisor with the guidance of Human Resources determines that the employee cannot return to perform the essential functions of his/her job, then the employee will be notified in writing of the proposed termination at least two weeks before the termination will take effect. An employee who receives notice of intent to terminate under this section shall be afforded the right to seek an Extended Leave of Absence, as more fully discussed below. Business necessity termination due to uniform absence control is not a disciplinary action and does not operate to deny an employee



the use of accrued benefits as outlined in appropriate policies.

4. An employee who has received notice of the City's intent to terminate the employee for absences in excess of thirteen (13) weeks in a twelve month period or for absences due to an off-duty injury or illness may apply for an Extended Leave of Absence for up to thirteen (13) weeks of additional leave to the City Manager. In order to apply for the Extended Leave of Absence, the employee must present a written request to his/her supervisor and the Director of Human Resources stating the length of additional leave requested and identifying the reasons in support of the request for additional leave. The Director of Human Resources or his/her designee will review the employee's request and make a recommendation to the City Manager. The decision on whether to approve the employee's request for additional leave is left to the sole discretion of the City Manager. The following shall be taken into consideration when reviewing the employee's request for Extended Leave of Absence:
 - a. A doctor's prognosis indicating whether or not the employee will be able to perform his/her regular duties or modified duties if available. In the case of an employee with a disability as defined by the ADA, termination would not be considered unless no reasonable accommodation (which would not cause undue hardship to the organization or pose a direct threat to the health or safety of the employee or others) exists that would enable the employee to perform the essential functions of his/her position, and no job reassignment is available.
 - b. A doctor's prognosis indicating when the employee may be able to return to work.
 - c. The length of time it would take to replace the employee in his/her position.
 - d. Whether the employee is willing to accept placement in a different, available position for which the employee is qualified.
 - e. Whether the employee has been willing to accept a modified duty assignment after the expiration of any available FMLA leave for an on-the-job injury.



- f. Whether the employee is able to present satisfactory evidence of his/her ability to return to work, either in a limited duty capacity if such work is available or to regular duty according to the timetable established in the procedure or upon request by the City.
- g. Whether the employee has made any falsifications or misrepresentations concerning his/her physical condition or capacity.
- h. Whether the employee refuses to return to regular duty on the day specified by the treating physician.
- i. Whether the employee maintained contact with his/her immediate supervisor on a regular basis (as directed by his/her supervisor) and notified him/her of his/her condition and expected return-to-work date. If the employee was unable to make contact personally, he/she should have someone contact his/her supervisor on his/her behalf.
- j. Whether the employee provided requested progress reports from the treating physician.