



**Board of County Commissioners - Staff Report**

**Meeting Date:** November 15, 2016

**Presenter:** Julianne Fries

**Submitting Dept:** Human Resources

**Subject:** TC HR Policy: Employees Serving on Boards

---

---

**Statement / Purpose:**

Consideration of a policy which establishes procedures to be followed when an employee or designated volunteer suffers an on-the-job injury or illness in the workplace. The purpose of this policy is to provide clarity and ensure a consistent understanding of the policy and practices.

**Background / Description (Pros & Cons):**

This policy applies to all regular, part-time, full-time, seasonal, temporary, and pool status employees, and includes designated volunteers engaged in an extra-hazardous occupation while responding to situations where health and safety of the public are at risk.

Workers' Compensation (WC) is a type of insurance that will pay for medical treatment directly related to an injury or condition caused by the work activities. In addition some employees may qualify for Temporary Total Disability (TTD) benefits if they are unable to work as a result of their work-related injury. TTD are not allowed for the first three days of disability unless the employee is off for more than eight days. TTD benefits are the equivalent of 2/3 of the employee's gross monthly wage at the time of the injury and they are not treated as taxable income. TTD benefits are paid twice a month with ½ of the monthly award paid on or about the 15<sup>th</sup> and the other ½ paid on or about the 30<sup>th</sup> of each month.

Our current policy outlined in our Handbook lacks clarity and does not include clear procedures on how Workers' Comp is administered. In the past, Teton County would allow employees to receive 'earned wages' or regular hours while out of work on WC and also receive WC wage replacement payments; essentially allowing an employee to 'double dip'. Most often Teton County would recover these payments from the employee, however there have been times when we did not. In 2014, under the direction of the Workers' Compensation division, the County changed its practice and stopped recording and paying for hours not actually worked when actively applying for WC benefits, allowing the employee to rely on the wage replacement benefits for compensation. If an employee wanted to supplement the difference between their WC payments and their regular income, they have had the option of utilizing their accrued sick leave; however the employee is not obligated to utilize their sick leave accruals; it's entirely their option.

The procedures outlined in this policy represent the national standard and best practice followed by most employers (private & public).

**Stakeholder Analysis & Involvement:**

This policy was presented to the County Clerk, the Sheriff, the Chief Deputy Civil Attorney, and the BCC Administrator initially for input and discussion. Remaining stakeholders include all County Elected officials and Department Directors who were presented with the policy on November 3, 2016 and then discussed in the EO/DD meeting on November 10, 2016.

**Fiscal Impact:**

Teton County is a self-funded program under Workers' Compensation, which means Teton County pays all medical and wage claims funded through Workers' Compensation.

**Staff Impact:**

Negligible



**Board of County Commissioners - Staff Report**

**Legal Review:**

K. Gingery has reviewed and approved the policy

**Staff Input / Recommendation:**

Staff recommends approval of the policy. The purpose of the Workers' Compensation law is to provide employees who are injured on the job with reasonable and necessary medical treatment and partial wage replacement while recovering from a work-related injury, in exchange for the forfeiture of the employee's right to sue the employer under the umbrella of negligence. It was designed to be a strict liability system, meaning that it is not necessary to prove who was at fault in order to obtain benefits. Workers' Compensation laws also provide employers with a level of protection by limiting the amount an employee can receive from an employer. Employers are not obligated to make payments beyond these limits. If this were the case, then there would be no incentive for an employee to return to work. This policy allows the employee to use their accrued sick leave to make up the difference between the workers' compensation pay and their regular pay to 'make them whole' until their accrued leave is exhausted. As with any other unpaid leave status, employees will not accrue sick and vacation leave or be able to receive and make contributions to the Wyoming Pension program, even under FMLA; only the medical insurance programs are maintained when an employee is in FMLA. FMLA will run concurrent with Workers' Compensation.

**Attachments:**

Policy attached

**Suggested Motion:**

I move to approve adopting the Teton County Human Resources Workers' Compensation Policy, effective immediately.

# Teton County Human Resources Policy: Workers' Compensation Policy

---

## Purpose

This policy complies with Wyoming's Workers' Compensation Act and the Occupational Health and Safety Act, to establish procedures to be followed when an employee or volunteer suffers an on-the-job injury or illness in the workplace.

## I. Policy

- a) Teton County provides workers' compensation coverage for all regular full-time, part-time, seasonal, and temporary employees who incur injury or illness on the job; this includes designated volunteers engaged in extra-hazardous occupation while responding to situations where health and safety of the public are at risk as defined under W.S. 27-14-108(e). If an individual is injured or incurs an illness, the county will comply with all requirements of the Wyoming Workers' Compensation Act and will assist with his/her recuperation and return to work efforts.
- b) Safety is an integral part of each job in the County. Employees and designated volunteers are expected to work safely and follow applicable safety policies and procedures.

## II. Procedures

### A. Workers' Compensation (WC) General Requirements:

1. Any Teton County employee or designated volunteer who may be injured or disabled on the job, or who is exposed to or suffers an occupational illness of any kind, is required to report such incident or condition immediately to their supervisor, or as soon as practical, but not later than seventy-two (72) hours after having sustained an injury. In addition, the injured employee/volunteer shall file a Wyoming Report of Injury form within ten (10) work days after the accident to the Workers' Compensation Division; a copy of the form is sent to the Human Resources Department. Failure to submit timely reports may delay or endanger applicable indemnity and/or medical benefits to individuals.
2. Workers' Compensation may pay for:
  - a) Hospital and medical bills from the date of the compensable injury;
  - b) Temporary total disability (TTD) or temporary light duty; i.e., time lost from work as allowed by law;
  - c) Permanent loss of body function;
  - d) Artificial replacement as set by statute;
  - e) Death benefits as set by statute.

### B. Reporting Procedures:

1. Office/Department/Division Responsibilities:

Each Office/Department/Division shall take responsibility for providing a safe work environment in order to help prevent injuries and ensure that the individual receives prompt medical attention should an injury occur in the workplace.

  - a) It is the responsibility of all supervisors to investigate and report all on-the-job injuries or illnesses to Human Resources within 24 hours of the incident.
  - b) Within 24 hours of notification, review with the individual the details of

## Teton County Human Resources Policy: Workers' Compensation Policy

---

the incident to include: what the individual was doing when the injury occurred, what could have prevented the accident/injury, and any other pertinent facts regarding the incident.

- c) Complete and sign the back section of the WC Injury Report Form, mail the original form to Workers Compensation Division, and forward a copy to the Human Resources Department within 72 hours of the incident. Forms for these reports are available through the Human Resources Department or online through the Wyoming Department of Workforce Services.
- d) If applicable, counsel the individual regarding safety precautions specific to performing tasks in his/her work environment.
- e) Notify Human Resources if the employee will miss any work.
- f) Forward all Physician Notices or Releases to Human Resources upon receipt.
- g) When feasible and necessary, provide modified or light duty to the employee to allow the employee to return to work as soon as possible.

### 2. Employee/Volunteer Responsibilities:

Each employee is responsible for adhering to these policies and procedures and keeping their supervisor informed of their Workers' Compensation status.

- a) Report all on-the-job injuries or illnesses, no matter how slight, to their supervisor as soon as possible.
- b) Complete and sign the Wyoming Report of Injury form and submit to immediate supervisor for signature within 72 hours of the incident.
- c) Seek medical attention, if necessary, at the nearest medical facility; non-emergency injuries to an urgent care facility and critical or emergency medical needs to the hospital emergency room.
- d) Inform the medical facility/provider that the injury is job related, all claims should be filed through Workers' Compensation, and that he/she is employed by or a volunteer for Teton County.
- e) After treatment, if the employee is released to return to work, the employee must obtain a written release from the physician. This statement must include any work restrictions or physical limitations necessary.
- f) If the employee is not released to return to work, he/she must obtain a statement from the physician stating:
  - i. That the employee is unable to return to work.
  - ii. When the employee may be expected to return to work.
  - iii. Any work restrictions or physical limitations which may be necessary.
- g) All physician statements or fitness-for-duty forms must be provided to the employee's supervisor either prior to, or on the day the employee returns to duty, but in no case later than 24 hours.

### 3. Human Resources Responsibilities:

- a) Conduct a review of County-wide workers' Compensation data on a quarterly basis. Communicate trends and/or necessary follow up to the Elected Official or Department Director.

# Teton County Human Resources Policy: Workers' Compensation Policy

---

- b) Contact Employee and Physician, as necessary, to discuss injury, return to work date, and/or temporary light duty/modified work program.
- c) Coordinate temporary light duty between Workers' Compensation Case Manager, the employee, and the employees' supervisor and complete agreement with employee.
- d) Contact supervisor monthly to monitor temporary light duty and employee's condition.

**C. Medical Certification of Occupational Injury or Illness:**

If an employee is unable to return to work due to an occupational injury or illness, the employee must provide a written certification from the health care provider to the employee's Elected Official, Department Director, or Division Manager, and the Human Resources Department. Medical re-certification may be requested if the absence is for an extended period of time.

**D. Wage Replacement Payments and Payroll Procedures:**

An employee who sustains a compensable injury or illness and is unable to work after a waiting period of three (3) days is entitled to income benefits (TTD) which are calculated at a rate of two-thirds (2/3) of the injured employee's actual monthly gross earnings at the time of injury, but shall not exceed the statewide average monthly wage. Employees who elect to receive Workers' Compensation benefits will receive wage replacement in the following manner:

1. When an employee loses time on the date of injury due to seeking medical attention, supervisors should record the employee's time as sick leave hours with a notation of 'WC'.
2. If an employee loses up to eight (8) consecutive days, the first three (3) days of absence shall be taken as paid sick leave. TTD payments are not allowed for the first three (3) days unless the incapacity extends beyond eight (8) consecutive days.
3. If more than eight (8) days are lost, an employee may elect to receive Workers' Compensation benefit wages for all lost work days.
4. Weekends and holidays are included when counting the number of days off.
5. An employee may not use accrued leave or compensatory time while being compensated through Workers' Compensation.
6. Following a doctor's declaration that an employee may return to full duty, occasional absence from work related to the original injury will be charged to sick leave.

<b><u>Medical Release from Work:</u></b>	<b><u>Wage Replacement:</u></b>
Day of Injury	Paid sick leave is used for lost time
3 days or less than	Paid sick leave is used for lost time
More than 3 but less than 8 days	TTD benefits are paid for time out after third day
8 days or more	TTD benefits are paid from the initial first day out or retro-actively

# Teton County Human Resources Policy: Workers' Compensation Policy

---

Supervisors are responsible for accurate timecard related reporting. The law requires that what is reported must be paid; not reporting time accurately may be considered falsifying an official document and therefore needs to be reviewed carefully.

## **E. Workers' Compensation and Other Benefits:**

When accessing Workers' Compensation benefits, the injured employee and supervisor must be aware of how the employee's status may impact other county benefits and applicable policies. They include, but are not limited to, the following:

1. *Reporting Lost Time.*  
Each time an employee is absent from work due to a WC injury, the employee must provide documentation from his health care provider to his supervisor not less than every 30 days. This includes intermittent lost time.
2. *Workers' Compensation and Family Medical Leave.*  
An employee who is off work on workers' compensation leave who also meets the eligibility requirements of the FMLA will have that time designated as FMLA leave. This time will count towards the 12-week FMLA entitlement.
3. *Insurance Benefits.*  
If an employee exhausts FMLA or is not eligible for FMLA, and exhausts all leave accruals, the employee is in 'leave without pay' status (LWOP). When an employee reaches LWOP and is not protected under FMLA, they then are required to pay the County's Insurance premiums out-of-pocket to continue health benefits. In addition, all leave accruals and Wyoming Retirement Pension contributions cease. Employees may elect to suspend their health insurance coverage; however, they will be subject to the eligibility waiting period upon returning to active status. If an employee elects to maintain coverage and fails to pay the premiums, all insurance will be canceled.
4. *Accrual of Leave.*  
Employees shall not continue to earn vacation leave, sick leave, or holiday pay while an employee is out due to a sustained absence under a Workers' Compensation period.
5. *Supplementing WC Wage Replacement Payments*  
Upon receipt of the WC wage replacement check, an employee may opt to use available sick leave to supplement Workers' Compensation payments, but may not exceed total gross earnings. To use accumulated sick leave for a Workers' Compensation injury, the employee must remit a copy of his/her Workers' Compensation check to Human Resources prior to receiving any accumulated leave payments. The difference between such benefits and the employee's regular gross earnings will be calculated and a sick leave deduction will be processed on the next payroll cycle. Employees are not obligated to use their accrued sick leave benefits to supplement the workers' compensation wage payments.

Employees who have questions or disputes regarding Workers' Compensation benefits and payments should contact the Human Resources Department. Employees may also request a hearing with the Wyoming Workers' Compensation Division.

# Teton County Human Resources Policy: Workers' Compensation Policy

---

### III. Exception for Sheriff's Office:

Sheriff's Office employees who sustain an injury or disease under circumstances involving a crime committed against their person, will not be required to utilize their sick leave accruals to offset any time lost under the workers' compensation policy. Administrative leave may be used to supplement workers' compensation payments, but shall not exceed the employee's total gross earnings. The length of time which administrative leave will be granted shall be up to the Sheriff's discretion, but shall not exceed a period of 90 calendar days.

### IV. References

- A. Workers' Compensation Act §27-14-102 through 27-14-405
- B. Occupational Health and Safety §27-11-102
- C. Americans with Disabilities Act
- D. Human Resources Policy: 5-3 - Family and Medical Leave Act