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**Teacher Down!
Coordinating Benefits when an
Employee is Injured at Work**

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Introduction

What type of leave or compensation is available to an injured employee? This paper focuses on Workers' Compensation, Assault Leave, Family Medical Leave, and Temporary Disability Leave. The nature and cause of the injury inform the type of leave available to the employee. First, I will explore the types of leave and compensation available under each of the laws, and then I will discuss how the benefits of each type of leave may be coordinated.

Workers' Compensation

The Texas Department of Insurance describes workers' compensation as follows:

Workers' compensation is a state-regulated insurance program that pays medical bills and replaces some lost wages for employees who are injured at work or who have work-related diseases or illnesses.

Workers' compensation will pay for the medical treatment of an injury or illness if:

- The injury occurred at work or the disease or illness is job-related; and
- The worker's employer has workers' compensation insurance or is certified by the Texas Department of Insurance, Division of Workers' Compensation to self-insure.

Workers' compensation will also replace some of the worker's lost wages if:

- The injury or illness caused the worker to lose some or all income for more than seven days.

<http://www.tdi.texas.gov/wc/dwc/>

Texas is the only state that does not require all employers to cover employees with workers' compensation insurance; however, public employers must carry workers' compensation insurance, either through a licensed insurance company or through self-insurance. Texas Labor Code, Section 406.002, 504.011.

Course and Scope of Employment

In order to be eligible for workers' compensation benefits, an employee must have been injured in the course and scope of his employment. This includes activities conducted on the premises of the employer or at other locations. Texas Labor Code, Section 401.011(12).

“Course and scope of employment” means an activity of any kind or character that has to do with 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. The term includes an activity conducted on the premises of the employer or at other locations. The term does not include:

- (A) transportation to and from the place of employment (*Coming and Going Rule*) unless:
 - i. the transportation is furnished as a part of the contract of employment or is paid for by the employer;
 - ii. the means of the transportation are under the control of the employer; or
 - iii. the employee is directed in the employee’s employment to proceed from one place to another place (*Special Mission Exception*); or
- (B) travel by the employee in the furtherance of the affairs or business of the employer if the travel is also in furtherance of personal or private affairs of the employee (*Dual Purpose Doctrine*) unless:
 - i. the travel to the place of occurrence of the injury would have been made even had there been no personal or private affairs of the employee to be furthered by the travel; and
 - ii. the travel would not have been made had there been no affairs or business of the employer to be furthered by the travel.

Texas Labor Code, Section 401.011(12).

What if the employee is injured on the premises but he is not working at the time of the injury?

It is a compensable injury if the employee is injured while passing, with the express or implied consent of the employer, to or from his work by way over the employer’s premises. *Standard Fire Ins. Co. v. Rodriguez*, 645 S.W.2d 534 (Tex. App. - San Antonio 1983).

Ex: A teacher is enjoying her 30 minute duty free lunch. She is “off duty.” On her way out to her car she trips and falls down the front steps of the school. This is compensable because she was leaving work and passing from her work area by a way over her employer’s premises with the express or implied consent of the employer.¹

¹ All of the examples in the section on Workers’ Compensation are taken from the *Appeals Panel Decision Manual, Texas Workers’ Compensation Law*, found at www.tdi.texas.gov/wc/idr/documents/apdmword.doc

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