



Workers' Compensation

Worker's Compensation Policy

Approved By and Date:

Board of Trustees 12/16/2019

Executive Leadership Team 09/11/2019

Policy:

Kilgore College provides workers' compensation insurance coverage to its employees and abides by all and state regulations governing such. Kilgore College may not discharge or in any other manner discriminate against an employee because the employee has:

- a. Filed a workers' compensation claim in good faith;
- b. Hired a lawyer to represent the employee in a claim;
- c. Instituted or caused to be instituted in good faith a proceeding under the Texas Workers' Compensation Act; or
- d. Testified or is about to testify in a proceeding under the Texas Workers' Compensation Act.

Kilgore College may terminate an employee for violation of a reasonable absence-control policy without liability for prohibited discrimination.

Procedures:

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Coverage

Those covered by the College's workers' compensation insurance plan include any employee in the service of Kilgore College, as the term "employee" is defined by Chapter 504 of the Texas Labor Code.

A person is not an employee and is not entitled to compensation if the person:

- a. Is in the service of Kilgore College and is paid on a piecework basis or on a basis other than by the hour, day, week, month, or year;
- b. performs services that may benefit the College, or is employed by or under contract with a performer providing those services, but does not receive payment from the College for the performance of the services, if the services are performed in connection with the operation or production of a musical, vocal, or theatrical performance or another entertainment event; or
- c. Is an independent contractor.

A workers' compensation absence longer than three days with continuing treatment or that results in inpatient care may qualify as a serious health condition for purposes of the Family Medical Leave Act. An absence that is due to a work related injury or illness that qualifies as FMLA leave shall be designated as leave under the FMLA.

Income Benefits

An employee may be paid temporary income benefits (TIBs) if his/her work-related injury or illness causes him/her to lose some or all of his/her wages for more than seven (7) days. Once TIBs accrue, an employee is entitled to TIBs to compensate the employee for lost wages due to the compensable injury during a period in which the employee has disability and has not reached maximum medical improvement (MMI). Lost wages are the difference between the employee's gross average weekly wage (AWW) and the employee's gross Post-Injury Earnings (PIE). If the employee's PIE equals or exceeds the employee's AWW, the employee has no lost wages. The employee must report any income earned while receiving TIBs; failure to do so may be grounds for termination.

PIE shall include, but not be limited to, the documented weekly amount of:

- a. All pecuniary wages paid to the employee after the date of injury including wages based on work performed while on modified duty and pecuniary fringe benefits which are paid to the employee whether the employee has returned to work or not;
- b. any employee contribution to benefits such as health insurance that the employee normally pays but that the employer agrees to pay for the employee in order to continue the benefits (which does not include the portion of the benefits that the employer normally pays for);
- c. the weekly amount of any wages offered as part of a bona fide job offer which is not accepted by the employee which the insurance carrier (carrier) is permitted to deem to be PIE under §129.6 of this title (relating to Bona Fide Offers of Employment);
- d. the value of any full days of accrued sick leave or accrued annual leave that the employee has voluntarily elected to use after the date of injury;
- e. the value of any partial days of accrued sick leave or accrued annual leave that the employee has voluntarily elected to use after the date of injury that, when combined with the employee's TIBs, exceeds the AWW; and
- f. any monies paid to the employee by the employer as salary continuation based on:
 1. contractual obligation between the employer and the employee including through collective bargaining agreement;
 2. an employer policy; or
 3. written agreement with the employee.

PIE shall not include:

- a. any non-pecuniary wages paid to the employee by the employer after the injury;
- b. any accrued sick leave or accrued annual leave that the employee did not voluntarily elect to use;
- c. any wages paid by the employer as salary supplementation as provided by Texas Labor Code, §408.003(a)(2);

- d. any moneys paid by the employer which would otherwise be considered PIE under subsection (c) of this section but which the employer attempts or intends to seek reimbursement from the employee or carrier; or
- e. any money paid to an employee under an indemnity disability program paid for by the employee separate from workers' compensation.

TIBs end at the earlier of:

- a. the date MMI is reached;
- b. the date the employee is able to earn his/her same AWW that was earned pre-injury; or
- c. at the end of 104 weeks from the date of eligibility for TIBs.

Relation to Paid Leave

If eligible, workers' compensation insurance may begin paying a percentage of the employee's current wages if the employee's absence exceeds seven calendar days. College employees have the option to use paid leave during a workers' compensation absence. State workers' compensation laws prevent employees from receiving more than 100% of their pre-injury average weekly wage if they decide to use paid leave while receiving TIBs. The employee may choose one of the following:

- a. Use available leave and delay TIBS until the amount of elected leave is used or to the degree that paid leave does not equal the pre-illness or pre-injury wage; or
- b. Receive TIBS and decline the use of available paid leave. If this option is chosen, the employee will not receive any regular salary payments from Kilgore College while receiving weekly income benefits under workers' compensation; or
- c. Receive previously accrued sick leave benefits, whether statutory or contractual, in an amount equal to the difference between the TIBS and the weekly compensation that the employee was receiving before the injury that resulted in the claim. Sick leave benefits received under this option will be deducted proportionately from the employee's sick leave balance.

Employees must indicate their choice on the "Leave Benefits Election with Workers' Compensation" form.

Medical Benefits

Kilgore College's workers' compensation carrier will pay for reasonable and necessary medical care to treat an employee's compensable work-related injury or illness. The insurance carrier will pay such medical benefits directly to the health care provider that provides the employee's medical care.