

WORKERS' COMPENSATION,
ASSAULT LEAVE, DISABILITY
LEAVE & BENEFITS

FOR MEMBERS OF THE

Chicago Teachers Union

ROBIN POTTER & ASSOCIATES, P.C.

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WORKERS' COMPENSATION, ASSAULT LEAVE, DISABILITY LEAVE & BENEFITS

FOR MEMBERS OF THE CHICAGO TEACHERS UNION

Prepared by Jim Green, Esq.

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ROBIN POTTER & ASSOCIATES, P.C.

Robin Potter & Associates is a law firm of aggressive attorneys dedicated to protecting the rights of working people for over 35 years. We are committed to ensuring that members of the Chicago Teachers Union receive the quality legal representation and the maximum benefits they deserve. We have a clear understanding of your benefits under the law, your collective bargaining agreement and the Chicago Board of Education policies, as a result of our unique and ongoing relationship with the CTU. We have successfully represented members in workers' compensation claims, denials of benefits from Long Term Disability insurance companies, Family and Medical Leave Act (FMLA) and other legal matters.

If you are injured on the job or denied disability benefits or need legal representation regarding a denial of an FMLA leave of absence, give us a call for a free consultation to discuss your situation. We are here to help you protect your rights and maximize your benefits.

Feel free to contact our office to discuss any questions you have regarding your legal rights and benefits.

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INTRODUCTION

The Chicago Board of Education (also referred to here as “CPS” or the “Board”) is required to provide certain basic benefits to an employee who is injured on the job or suffers from a work-related disease, pursuant to the Illinois Workers’ Compensation and Occupational Disease Acts.

The Chicago Teachers Union (CTU) has negotiated additional benefits and protections for its members under the terms of Collective Bargaining Agreement (CBA) between the CTU and CPS, including benefits for employees who have been assaulted or battered on the job, and a short-term disability policy for employees who need to be absent from work for up to three (3) months for non-work related illnesses or injuries. Additional benefits may also be available to members who have purchased long-term disability insurance policies, through the FMLA or other laws governing leaves of absence or through The Chicago Teachers Pension or Municipal Retirement Funds.

This booklet is intended to provide an overview of your rights and benefits under Illinois law, your collective bargaining agreement, and CPS policies. Your rights may change by law or modification of the contract or Board policy. We advise that you consult an attorney regarding your rights under the law or a CTU Field Representative regarding your rights under the contract. We strongly urge you to keep all documents regarding your case, and ongoing notes in chronological order regarding your injury and related communications.

NOTE: The CTU does not represent members in Workers’ Compensation claims; members are instead represented by private attorneys such as us.

WORKERS' COMPENSATION

BENEFITS

CPS, like all other employers in Illinois, is required to provide certain benefits to an employee injured on the job:

- Temporary Disability Benefits
- Medical Treatment
- Benefits for Permanent Injury
- Vocational Rehabilitation

Temporary Total Disability Benefits (TTD)

You are entitled to receive weekly wage replacement benefits, referred to as “temporary total disability benefits” (TTD), if you have been off work more than three days following an on-the-job injury. TTD is paid in lieu of your regular salary. TTD is computed at $\frac{2}{3}$ of your regular pay up to a maximum amount set by law, and is tax free. No deductions are taken for insurance, pension or other CTU benefits, therefore you must make arrangements with the Board to pay for your regular Health Insurance (see pp. 12–14). The check should be approximately the same as your normal net take home pay. If you are off two full weeks or more, you will be paid retroactively in full for the first three days.

NOTE: There may be a delay from the date you are injured until you begin receiving TTD benefits. In the interim, you may use sick leave, but you have a right to have the days returned to your sick leave bank at the same rate of your TTD.

Medical Treatment/Bills

CPS is required to pay for 100% of the costs of any medical treatment, including, but not limited to, care from a hospital, physician, chiropractor, or physical therapist. These services are to be processed and paid for through Workers' Compensation, not through your regular medical insurance. The rate of payment for these services is set by law; your doctor or other provider may not bill you for any difference between his or her charge and the statutory rate for payment of workers' compensation medical services.

Compensation for Permanent Injury

You may also be eligible for additional compensation for your injury. Illinois has a complicated system for evaluating the amount of compensation to which an individual may be entitled for an injury. You may be compensated for the injury to a particular part of your body, or reduction in your overall functional capacity, or your inability to earn the same amount of money you earned prior to the injury, or any disfigurement you suffer.

While you may negotiate this compensation on your own, we advise you to consult an attorney before settling a claim.

Vocational or Occupational Rehabilitation

If you are unable to return to your job, the Board may be required to pay for treatment, instruction, and training necessary for your physical, mental, and vocational rehabilitation, and to compensate you while you are participating in this rehabilitation. Vocational rehabilitation may include, but is not limited to, counseling for job searches, supervising a job search program, and vocational retraining, including education at an accredited learning institution.

PROCEDURES

How Do I File a Workers' Compensation Claim?

CPS is currently contracted with Sedgwick Claims Management Services to administer its Workers' Compensation program. If you are injured on the job, for whatever reason, you should report the injury immediately, or as soon as possible, to your supervisor and then file a claim with Sedgwick. There are no forms that you need to complete. Simply call Sedgwick at **866-251-9251** and report your injury. You will need to provide your work location, information about the incident, and the contact information for the medical providers you have seen.

You will be given a claim number and assigned an adjuster, who will be responsible for handling your claim. The adjuster will review your claim and advise you whether CPS accepts or denies liability under Workers' Compensation. They will want to review documents from your doctor(s) to confirm that you need to be off work and for how long. The sooner your doctor or medical provider submits this information to the adjuster, the sooner the adjuster can review your claim. You should ask your doctor to provide you with a copy of whatever they submit.

You should then receive a letter from the adjuster notifying you that your claim has been accepted or denied. If your claim is promptly approved, you will begin receiving TTD benefit checks from Sedgwick until you are released to work. If your claim is denied or delayed, you have legal recourse to challenge the decision or delay at the Illinois Workers' Compensation Commission and should obtain an attorney to represent you.

NOTE: Sedgwick also manages the CPS's Short Term Disability (STD) Claims program, so it is important that when you call to report your claim, you advise them you are reporting a work-related injury not a personal illness or injury.

Return to Work

When you have completed treatment for your condition and your doctor has released you to return to work, you will need to obtain a written return to work release from your doctor and submit it to Sedgwick. Once it approves your return to work, Sedgwick will notify you and CPS, and you may return to work.

If the release contains any limitations or states that any accommodations are needed, you should immediately contact CPS to request a reasonable accommodation.

ASSAULT LEAVE

Assault Leave is a benefit negotiated by the CTU under Article 14, Section 14-4 of the CBA, which provides a comprehensive benefit for any member who is injured on the job as a result of an assault or battery (See Article 14, Section 14-4 of the CBA).

Benefits

If an employee is injured as the result of an assault or battery, they are entitled to receive 100% of their salary and compensation, instead of the 2/3 that they receive under Workers' Compensation. You will continue to receive your regular check and benefits as if you were working. All taxes and regular deductions will be taken.

How Do I File a Claim for Assault Leave?

CPS has also delegated the review of Assault Leave claims to Sedgwick. The procedure for filing a claim is the same as for reporting a Workers' Compensation claim. You should immediately report the incident to your supervisor, then contact Sedgwick. Advise them that you were injured on the job as the result of an assault or battery. Sedgwick should notify you whether they accept your claim as Workers' Compensation or Assault Leave, or neither. If the claim is denied as Assault Leave, contact your Field Representative at the CTU and let them know you have been injured as a result of an assault or battery. The entitlement to Assault Leave pay is solely a benefit under the CBA.

If your claim is denied as Assault Leave, you should continue to pursue the claim with Sedgwick since you may still be eligible to receive Workers' Compensation benefits. If the claim is also denied as Workers' Compensation, you should call our office to discuss your options.

If you are approved for Assault Leave, you are also eligible for all other Workers' Compensation benefits, including 100% payment of your medical bills and possible compensation for any permanent injury. All medical bills will be processed by Sedgwick, but your salary checks will continue to come from CPS.

Return to Work

Follow the same procedures as on a Workers' Compensation leave, as explained previously on page 8.

FAQS

What do I do with my medical bills?

Your medical providers (doctors, etc.) should submit bills for your treatment directly to Sedgwick, not to your health insurance company. Most providers are aware of how to submit these bills to insurance companies, but you can check with your adjuster if you have any problems.

If your claim for workers' compensation has been denied, you can submit your bills through your regular health insurance, but keep track of them in case it is later determined that your claim should have been paid through Workers' Compensation. If you challenge the denial of your claim, you should also notify your medical providers that you have filed a Workers' Compensation claim. They are required to put collection of bills on hold pending resolution of the Workers' Compensation claim, although you may eventually still be responsible for your portion of the bills if your challenge is not successful.

Can I see my own doctor for treatment?

You have the absolute right to see a doctor of your choosing and any specialist to whom he or she refers you. You also have the right to see a second doctor and any specialist referred by your doctor, but it is recommended that you check with the insurance adjuster or your attorney before seeing a second set of doctors. Recent changes in the law may limit you to a selection of one set of your own doctors.

What if Sedgwick refers me to a medical provider for treatment?

Sedgwick may suggest that you see a certain medical provider for treatment or testing. You are not under any circumstances required to be treated or tested by any doctor or provider they suggest. While nothing prevents you from being treated by a doctor or going to a testing facility referred by Sedgwick, you have the right to seek treatment from a doctor of your choosing, as explained above. This includes referrals for medical testing such as X-rays, MRIs, CAT Scans, and blood work.

What if Sedgwick refers me to a medical provider to be examined but not treated?

CPS has the right to occasionally send you to be evaluated by a doctor of their choosing for an opinion on whether the treatment you are receiving is necessary and appropriate, and if you are able to return to work, with or without any limitations. These examinations are called Independent Medical Exams or IMEs. You are obligated to cooperate with these requests for exams or risk the possibility of having your benefits terminated. You may not be treated by these doctors, nor are you obligated to follow any advice they provide. All medical decisions should be made between you and your physician. You must also be paid for travel expenses and lost time from work for the IME visits.

What if my doctor and Sedgwick's doctor disagree about what treatment I should receive or my ability to return to work?

If the IME doctor determines that you may return to work, or do not need a particular medical service or treatment, Sedgwick will most likely terminate your weekly benefits and stop payment of any treatment it believes is not medically necessary. You have a right to challenge these

decisions before an arbitrator at the Illinois Workers' Compensation Commission, who will decide whether to order continued treatment and time off or to confirm Sedgwick's decision to terminate your benefits. In this event, you should consult with an attorney.

What if I am contacted by a nurse case manager from Sedgwick?

Sedgwick will often assign a nurse case manager to monitor the medical treatment you are receiving. He or she may contact you to request your permission to talk with you and your doctor regarding your care. He or she can be helpful in expediting your treatment, but, always be careful because he or she is an agent of Sedgwick. You should check with your attorney first, if you have one. You should never allow the nurse case manager to come into a doctor's office with you.

What if I am requested to give a recorded statement to a claims adjuster?

You should fully cooperate with the adjuster in providing Sedgwick information and documentation regarding the incident which caused your injury and your medical treatment. You are not required to give a recorded statement and would be advised to not do so, and certainly should check with an attorney first. Anything you say can be used against you, for example, if you have to challenge any denial of benefits by Sedgwick at the Workers' Compensation Commission.

What happens to my other benefits while I am on a Workers' Compensation or Assault Leave?

Sedgwick will not take any deductions from a TTD check for any of your benefits from CPS. All regular deductions will be taken from your check

if you are on Assault Leave. The approval of a workers' compensation or assault leave also constitutes a leave under the Family and Medical Leave Act (FMLA) (See Article 33-7 and Appendix G of the CBA).

Health Insurance

You are eligible to continue to participate in the CPS health insurance plan but are required to pay your premium. You will be billed for the premium by CPS, and as long as you pay it, you will continue on your insurance on the same basis as when you were working, for up to twelve (12) weeks, as required by the FMLA. If you are off work more than twelve (12) weeks, you are eligible to continue on CPS Health Insurance for the duration of an approved leave. (See Article 32, Section 1.1 of the CBA).

If you are on an Assault Leave, the premium will be deducted from your check, as if you were working.

Pension

Since you will not be receiving a regular check from CPS while on a Workers' Compensation Leave of Absence, no contributions will be made to the Chicago Teacher's Pension Fund (CTPF) or the Municipal Retirement Fund (MRF) on your behalf, either your portion or that of CPS.

If you are on an Assault Leave, your contribution will be deducted from your check, as if you were working.

Other Benefits

You will also need to make arrangements with CPS to pay for any other benefits, such as voluntary life insurance and long-term disability premiums, which are normally taken from your check. If you are on Assault Leave, your deductions will be made as if you were working.

What happens if I used sick days for days that should have been covered under Workers' Compensation or Assault Leave?

If your claim is accepted as a Workers' Compensation claim, and you have used your sick time before you started receiving benefits, you are eligible to have most of the sick time returned to your bank. Since you receive 100% of your pay on sick leave and TTD benefits are paid at 2/3 of your salary, CPS will credit your bank with 2/3 of a day for each day it should have paid you for TTD.

If your claim is accepted as an Assault Leave claim and you have used sick time, your bank should be reinstated at 100%.

Can I sue CPS for damages in addition to my Workers' Compensation benefits? Am I entitled to damages if it is the employer's fault, not mine?

No. Workers' Compensation is a no fault system designed to compensate employees for on the job injuries. You are not required to prove that it was the fault of the employer that you were injured and the employer may not allege that the injury was your fault. If the injury was the fault of a third party (e.g., a contractor working on a building or a cleaning vendor), you may have the right to sue that person or entity. You should always contact an attorney if a third party may be involved.

What happens if I am unable to return to work?

Once you have reached your maximum medical improvement (MMI), you may be eligible to receive compensation for your injury. If you are unable to return to work, that will be factored into your compensation. You may also be eligible to receive Vocational Rehabilitation.

If you have purchased long-term disability insurance or meet certain requirements of the Chicago Teachers Pension Fund or the Municipal Retirement Fund, you may be eligible for additional benefits not covered under Workers' Compensation.

What happens if I am injured but do not lose any time, am I still entitled to anything?

Yes. You are entitled to payment of your medical bills and may be eligible for compensation for the permanency of the injury, if it is more than minimal.

Am I covered for diseases or illnesses that are caused by work?

Yes. The Illinois Workers' Occupational Disease Act covers illnesses or diseases that are work related. This can include such things as pulmonary problems caused by dust or asbestos, exposure to radiation, or toxic gases or fumes.

How do I close my claim?

Once you and your doctor have determined that you have reached your maximum medical improvement (MMI), you may have the right to compensation for the injury as discussed above. It will need to be approved

by the Illinois Workers' Compensation Commission. Once a settlement is approved, you will release your rights to any future benefits for this injury or illness. While you may negotiate this on your own, we recommend you discuss this with an attorney.

What happens if my claim is denied?

You have the right to pursue a claim at the Illinois Workers' Compensation Commission. As with any other legal matter, the process is complicated and often confusing, and we suggest that you consult an attorney. Our office will provide a free consultation to review your claim and advise you on your rights. If you decide to use our services and we accept your claim, there will be no charge for our services until you receive benefits. All attorney fees are strictly regulated under the Illinois Workers' Compensation and Occupational Disease Act.

Call workers comp/benefits Attorney Jim Green at **Robin Potter & Associates, P.C.**, at **312-861-1800** for a free consultation, or visit our website at www.potterlaw.org.

LEAVES OF ABSENCE AND BENEFITS FOR EMPLOYEE EXTENDED ILLNESS OR DISABILITY

The CBA and Board Policies provide for leaves of absence and benefits for employees unable to work due to both work and non-work related injuries and illnesses for themselves and/or family members. These leaves and the benefits are provided in addition to those the Board is required to provide pursuant to the Illinois Workers' Compensation and Occupational Disease Acts. They will be briefly summarized here. For more details on each of these, you should check your collective bargaining agreement and Board policies.

Family Medical Leave Act (FMLA)

The Family Leave Medical Act (FMLA) is a federal law which requires CPS to allow employees who suffer from serious health conditions to take a leave of absence of up to twelve (12) weeks from work without pay and retain their right to return to their job or a similar job. The time can be taken intermittently, in hours, days, or weeks, whatever you need as prescribed by your doctor or treatment providers. The Board is also required to allow the employee to continue to participate on the CPS health insurance policy, as long as the employee continues to pay the same cost as if they were working, while on a FMLA leave.

The FMLA also provides for leaves of absences for employees who need to take time off to care for certain family members' serious illnesses and paternity/maternity and adoption leaves, and leave for military-related reasons under certain circumstances.

Upon filing of a claim for Workers' Compensation or Assault Leave, you will receive an FMLA Application from Sedgwick which you and your doctor must complete. Once it has been returned and approved, the time you are off on Workers' Compensation leave will also be counted towards your FMLA leave, and you will receive the full protections of the law. If your absence exceeds twelve (12) weeks, you will no longer be covered under the FMLA until you have returned to work and worked 1,250 hours, or, if extended under Board policy or the Americans With Disabilities Act.

NOTE: CPS has also delegated the processing and monitoring of FMLA leaves to Sedgwick. Any questions should be addressed to them at **866-251-9251**.

Supplemental Medical Leave

You may also be eligible for a Supplemental Personal Illness Leave of Absence, of up to 25 months, if you are unable work due to a personal illness, as certified by a physician. Since the rules vary depending on your employment status (TAT, Appointed Teacher, PSRP) you will need to review the CBA and Board policy to determine your eligibility for extended leave and your rights of job protection. (For more information, see Article 33 and Appendix G of the CBA, and Policy #513.1 and #513.31 of the CPS Policy Manual.)

Health Insurance on Leaves of Absence

The provisions for health insurance for bargaining unit members can be found in Article 32 of the CBA. Appointed teachers and PSRPs may be eligible to continue to participate in the Board's insurance plan, at their own expense, for up to twenty-five (25) months if they are on an approved

leave of absence. TATs may be allowed to continue coverage for up to five (5) months or the end of the school year, whichever comes first.

Short Term Disability Benefits (STD)

The CTU negotiated a new Short Term Disability (STD) program, which provides up to ninety (90) days of benefits for an employee who meets the criteria specified in the policy. You must first use all of your ten (10) annual sick leave days, then will receive 100% of your salary for the first thirty (30) days, 80% for the next thirty days, and 60% for the final thirty (30), but may supplement the last two (2) months with time you have remaining in your sick leave bank. These benefits are not available to an employee who is receiving Workers' Compensation benefits, or to an employee who takes leave to care for someone else. **You must apply for this benefit within ten (10) days of the first day you are unable to work.**

CPS has also assigned the administration of this benefit to Sedgwick Claims Management Service. In order to file a claim, you simply call Sedgwick at **866-251-9251**. Since Sedgwick administers the Workers' Compensation, Assault Leave, FMLA Leave and Short Term Disability programs for CPS, it is important that when you report a claim you let the person answering the phone know if you believe your claim is the result of a work-related injury, an assault, a battery, or a personal health issue.

Details of the policy may be found in Article 37, Section 5 of the CBA. You may also access a Short Term Disability Fact sheet on the CTU website. (Go to www.ctunet.com and enter "disability" into the search field).

NOTE: While you are not eligible to receive Short Term Disability benefits at the same time you receive Workers' Compensation (WC) benefits, if you apply for and receive STD benefits, and are subsequently approved for WC benefits for the same period, you will need to pay back the STD benefits from the retroactive WC benefits you receive.

Long Term Disability Benefits (LTD)

Employees may purchase Long Term Disability (LTD) insurance through payroll deduction. These policies are offered by different insurance companies through CPS. The policies normally have either a ninety (90) or one hundred eighty (180) day waiting period, during which no benefits are payable. After the waiting period, they will then pay a percentage of your salary for a period of time. The cost of the policy, the salary replacement and the period of time that they pay for your lost time is determined by the terms of the policy itself. Policies are also available outside of CPS through private insurance companies and the The American Federation of Teachers.

NOTE: Unlike the Board's Short Term Disability policy, these private Long Term Disability insurance policies may allow you to receive LTD benefits and workers' compensation benefits at the same time, but may offset awarded benefits by the amount of Workers' Compensation pension or disability benefit you receive or are owed from the Chicago Teachers Pension or Municipal Retirement Fund. You need to carefully review the terms of the policies for the rules of the particular plan.

If benefits are denied by either Sedgwick for Short Term Disability, or by an insurance company, you have the right to appeal those denials. While you have the right to file an appeal on your own, you would be well advised to consult with an attorney. Feel free to contact our office for a free consultation.

Disability Pension

The Chicago Teachers Pension Fund (CTPF) and the Municipal Retirement Fund (MRF) each contain provisions for eligible employees to receive either a duty or non-duty related disability pension. If you have been injured on the job, received workers' compensation and meet the age and service requirements, you may be eligible for a duty related pension when your workers' compensation claim is resolved. If you are disabled for a non-work related condition, you may be eligible for a non-duty related pension, if you meet the age and service requirements of each fund.

For further information you must contact the Fund directly:

Chicago Teachers' Pension Fund

203 N. LaSalle Street, Suite 2600

Chicago, IL 60601-1231

312-641-4464

www.ctpf.org

Municipal Employees' Annuity and Benefit Fund of Chicago

321 N. Clark Street, Suite 700

Chicago, IL 60654-4767

312-236-4700

www.meabf.org

FEEL FREE TO CONTACT OUR OFFICE FOR A NO-COST
CONSULTATION IF YOU ARE INJURED ON THE JOB OR
HAVE BEEN DENIED DISABILITY BENEFITS.

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USEFUL CONTACTS

Illinois Workers' Compensation Commission

100 W. Randolph Street, #8-200
Chicago, IL 60601
312-814-6611
www.iwcc.illinois.gov
(claims information, Workers' Compensation Handbook)

CPS: Employee Services, Talent Office

773-553-HR4U
hr4u.cps.edu

Sedgwick Claims Management Services

866-251-9251
Fax #: 312-347-6800
www.sedgwick.com
(check claim status)

Chicago Teachers' Pension Fund

203 N. LaSalle Street, Suite 2600

Chicago, IL 60601-1231

312-641-4464

www.ctpf.org

Municipal Employees' Annuity and Benefit Fund of Chicago

321 N. Clark Street, Suite 700

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312-236-4700

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