

UTS Policy 185 on Injury Leave for Peace Officers Questions and Answers

1. Who notifies Human Resources (HR) of the injury?

As is the case with any Systemwide policy on leave, it would be up to each institution to develop policies and procedures to implement UTS 185, including how a leave request should be initiated. With most leave policies, the institution leaves it up to an employee requesting a particular type of leave to initiate the request. However, an institution could adopt a procedure that, in circumstances where the employee is unable to make such a request, permits the employee's direct supervisor to initiate the request on behalf of the employee.

2. How does the Workers' Compensation Representative (WCI Rep) get notified that an injured peace officer has requested injury leave?

Once an HR office receives a request for injury leave, the HR office should report the request to the WCI rep. A copy of the leave request submitted by, or on behalf of the peace officer, and signed on behalf of the HR Office should be forwarded to the WCI Rep.

3. How does the Office of Director of Police (ODOP) get notified of an injury to a peace officer?

Protocols are already set up within the police departments at each institution to notify ODOP of any injuries. In addition, each institution's HR department will also reach out to ODOP to notify them of an injury to a peace officer.

4. How long should it normally take for ODOP to make a decision as to whether the injury reported is eligible under UTS 185?

This should typically occur in 24 hours or less.

5. How does the WCI rep and supervisor get notified of the injury leave eligibility decision?

HR will need to notify the WCI rep and the supervisor as soon as a final determination has been reached regarding the employee's request for injury leave eligibility.

6. When is the WCI23P submitted to the third party administrator for workers' compensation?

As soon as the decision comes back from HR stating the peace officer is eligible for injury leave and the claim has been accepted as compensable. While a decision is pending please submit the WCI23.

7. What happens if injury leave is denied?

The peace officer would need to elect one of the options available to him or her under the UT System workers' compensation policy. Once this decision has been made, the WCI23 will need to be submitted by the WCI rep to the UT System workers' compensation plan administrator as soon as possible.

8. Should there be a designated HR representative to communicate with ODOP and sign the WCI23P form?

This will be up to each institution. As with any HR function, each office must decide what duties are assigned to each staff. Some offices may be large enough to have specific staff specialize in performing a specific function, while others may not lend itself to this practice. As with any HR function, the HR office should ensure that staff have cross- training sufficient to ensure that services may be provided in the absence of a particular staff member.

9. How will injury leave affect leave under the Family and Medical Leave Act?

The availability of injury leave would not generally impact an employee's right to request leave under the FMLA or to receive such leave any differently than would the availability of sick or annual leave. Please follow your institution's policies for requesting guidance from legal counsel about any issue involving leave under the FMLA where you are not sure about its application to a particular issue.

10. Are security guards also eligible for this leave?

No, injury leave is only for commissioned peace officers who are injured in the course of performing their duties as a peace officer as an employee of a UT System institution.

11. What happens when injury leave has expired?

Once injury leave has expired, the peace officer may elect any other options available to that employee under the Workers' Compensation Act and System's workers' compensation policies. Employees on such leave should be advised that if they believe they are not able to return to work after expiration of their eligibility for injury leave, should make timely arrangements to elect one of these options, which are listed on the WCI23. The WCI23 should be submitted to the UT System Workers' Compensation administrator as soon as possible to ensure that they can transition to available workers' compensation benefits as of the date that their injury leave expires.

12. Should the peace officer be put on injury leave before a compensability decision has been made by the TPA?

No, injury leave is available only for peace officers who experience a compensable injury while acting in the line of duty. However, each institution may have other leave that may be available for use during this time.

13. If an injured officer is either working modified duty or is unable to work as an officer for the institution because of their restrictions, but they could work a previously authorized second job, would they be restricted from doing so?

That would be a question to be determined by ODOP and /or the institution under its existing policies. UTS 185 does not address the issue of outside employment.

14. How long will injury leave be available?

Injury leave will be available for up to one year from the first date of disability.

15. What happens if the peace officer has two claims?

Each claim would be determined based on its individual merits. Under UTS 185, eligibility for injury leave ends on the earliest of:

- (a) the date that the Peace Officer has completed a total of one year on Injury Leave status due to the incident;
- (b) the date that the Peace Officer reaches Maximum Medical Improvement pursuant to the *Texas Labor Code*; or
- (c) the date that the Peace Officer is no longer Disabled pursuant to the Texas Labor Code.

If the officer exhausts or is otherwise no longer eligible for injury leave and subsequently returns to work as a peace officer and then experiences another injury in the line of duty, that claim would be determined, and leave would be granted, if warranted, in accordance with the policy based on the facts surrounding that second injury.

16. Can injury leave be used to cover half days if the injured employee can only work part time due to the injury?

Injury leave is only available to the extent that an officer is determined to be disabled. “Disabled” is defined under the policy as “unable to work in one’s capacity as a Peace Officer due to a compensable injury at wages equivalent to a pre-injury wage.” If an employee can be determined by applicable UT System workers compensation plan and institutional policy to be “Disabled” on a part-time basis, then this leave would be available.

17. Can injury leave be used to cover doctor appointments?

Injury leave is only available to the extent that an officer is determined to be disabled as determined under the UT System Workers Compensation plan. Disabled is defined as “unable to work in one’s capacity as a Peace Officer due to a compensable injury at wages equivalent to a pre-injury wage.” An absence caused solely due to a doctor’s appointment would not meet the definition of Disabled under the policy.

18. Who has final determination if there were to be a disagreement between HR and ODOP regarding injury leave eligibility?

Injury leave is a type of employee leave status. The Human Resources office is normally the office that is charged by each UT institution for adopting and implementing the institution’s leave policies in accordance with applicable legal and Systemwide requirements in consultation with other offices within the institution as necessary to enable the HR office to perform its responsibilities. Presumably, in this case, the HR office would work with the ODOP, the institution’s legal counsel, and any other offices with knowledge or experience germane to the issue to arrive at the correct decision about a particular claim.

19. If the injured employee disagrees with the injury leave decision who should he/she communicate with in regards to the decision?

Injury leave is available for employees who have been determined to have a compensable injury under the System workers compensation plan and to have experienced an injury in the line of duty. If the employee disagrees with a decision that an injury is not compensable under the Workers' Compensation Act he/she would go through the workers' compensation dispute process. If the employee disagrees with the institution's decision that the injury did not occur in the line of the individual's peace officer duties, the employee would proceed under the institution's applicable grievance process.

20. If the injured employee was offered a bona fide offer of employment would the same rules apply or would the employee have the ability to use injury leave instead?

If a bona fide offer of employment was provided to the injured employee the same rules would apply as any other injured employee.

21. If injury leave is approved does the DWC 3 (wage statement) still need to be submitted to the TPA?

Yes, the DWC 3 still needs to be submitted to the TPA so the appropriate salary information can be reported to Texas Department of Insurance, Division of Workers' Compensation.

22. Can a peace officer use injury leave for an injury that occurred before the policy effective date of November 24, 2014?

No, injury leave is only available for injuries that occur on or after the policy effective date.

*As with any Systemwide policy, when situations arise that requires interpretation of UTS 185, the Offices of General Counsel and Risk Management at System are both available to provide guidance to the institutions on how to apply the policy.