**Workers' Compensation Injuries, UPPS No. 04.04.43**

**Illnesses, and Claims Issue No. 12**

**Effective Date: 05/02/2022**

**Next Review Date: 05/01/2025 (E3Y)**

**Sr. Reviewer: Director, Environmental, Health, Safety, Risk, and Emergency Management**

**POLICY STATEMENT**

*Texas State University is committed to providing a safe environment for its employees.*

**01. BACKGROUND INFORMATION**

01.01 Under the provisions of the State Office of Risk Management (SORM) Workers' Compensation program, each state agency is required to establish policies and procedures for the prevention of accidents, the enhancement of safety programs, and the processing of compensation claims. Specific objectives of this policy are to:

1. establish and disseminate university policy relating to the SORM Workers' Compensation program. Texas State University will inform employees of their rights under the [Workers' Compensation Act](https://www.tdi.texas.gov/wc/act/index.html) through campus-wide postings, and include benefit information as part of their new hire packet;

1. identify duties of the director of Environmental, Health, Safety, Risk, and Emergency Management (EHSREM);

1. identify duties of the Workers’ Compensation specialist charged with workers' compensation; the EHSREM Department manages the Workers’ Compensation program for the university.

1. establish procedures for processing workers' compensation claims; and

1. provide for periodic update of information to conform with state regulatory requirements.

01.02 Return-to-Work Program

a. The Return-to-Work Program provides a university employee sustaining a compensable workplace injury an opportunity to return to work at full duty. If the employee is not physically capable of returning to full duty, the Return-to-Work Program provides opportunities, when available, for the employee to perform a temporary assignment that modifies the employee’s regular position to accommodate the employee’s physical capabilities. A [Bona Fide Offer of Employment](http://www.fss.txstate.edu/ehsrm/workers/RTWprog.html) under the Return-to-Work Program will not exceed 60 cumulative calendar days per claim. If the employee is unable to return to work without restrictions within the 60 cumulative calendar day period, the university will place the employee on leave status at the end of that period. The employee will remain off work until they receive a non-restrictive release.

b. The Return-to-Work Program does not imply that an employee participating in the program has a disability, as defined by the [Americans with Disabilities Act 2008 (ADA)](https://www.eeoc.gov/laws/statutes/adaaa.cfm). If an employee sustains an injury or illness that results in a disability, it is the employee’s responsibility to inform their supervisor, or a person in a responsible management position, and follow the procedures in [UPPS No. 04.04.60](https://policies.txstate.edu/university-policies/04-04-60.html), Workplace Accommodation.

c. The Workers’ Compensation specialist will provide employees with specific procedures regarding the Return-to-Work Program, when necessary.

**02. DEFINITIONS**

02.01 Accident Prevention Coordinator – The director of EHSREM is responsible for implementing and administering the Accident Prevention program at Texas State.

02.02 Workers’ Compensation Specialist – serves as the workers' compensation claims coordinator responsible for coordinating workers' compensation claims and the associated Return-to-Work Program at Texas State.

02.03 Reportable Incident, Injury, or Illness – any incident, injury, or illness involving a university employee that occurred as a result of university employment. An incident occurs when there is no physical or visible injury at the time but may become an injury at a later date.

02.04 Workers’ Compensation Claim – a claim for compensation filed by a university employee for an injury or illness occurring in the course of employment that results in either:

a. more than one day of lost time; or

b. medical services for a work-related injury or illness.

02.05 Return-to-Work Program – On a case-by-case basis, employees absent from work due to a work-related injury or illness may return to work with medical work restrictions for a period not to exceed 60 cumulative calendar days per claim, if approved by the employee’s department head and the Workers’ Compensation specialist.

**03. STATE EMPLOYEES WORKERS' COMPENSATION PROGRAM**

03.01 The State of Texas provides workers’ compensation coverage for state employees as a self-insurance program, providing compensation and medical benefits for injuries and occupational illness arising from state employment.

03.02 SORM administers the State Employees Workers’ Compensation Program for university employees. SORM is responsible for processing and paying workers' compensation claims, providing risk management guidelines, and providing legal and administrative services for state agencies.

03.03 Texas State staff, faculty, or student workers who sustain an injury or illness on or after July 18, 1975, are eligible for workers’ compensation benefits under the [Texas Workers’ Compensation Act](https://www.tdi.texas.gov/wc/act/index.html).

**04. RESPONSIBILITIES AND DUTIES**

04.01 The [Claims Procedure](http://www.fss.txstate.edu/ehsrm/workers/claims.html) webpage contains an abbreviated list of the responsibilities outlined in this section.

 As a state employer of record, Texas State has responsibilities to the injured employee, SORM, and the Texas Department of Insurance, Division of Workers’ Compensation (DWC).

1. Texas State’s responsibility to the injured employee:

Texas State must notify employees of workers’ compensation coverage and the requirements to obtain benefits by including notification in the New Hire Packet, presenting the information in the New Employee Welcome, and posting notices throughout the campus.

1. Texas State's responsibilities to SORM:

1) submit Employers' First Report of Injury or Illness – DWC-1S. The university submits this report if the employee incurs personal medical costs or loses more than one day from work;

2) submit an Employee Election Regarding Utilization of Sick and Annual Leave – [SORM-80](https://gato-docs.its.txstate.edu/jcr%3Aedfb9c36-dd80-4035-b274-7b49b84ec8b0/SORM-80_SickAnnualleave%5B2%5D.pdf);

3) submit a Witness Statement Form – [SORM-74](https://www.fss.txstate.edu/ehsrm/workers/WorkerForms.html), if applicable;

4) submit Supplemental Report of Injury – DWC-6. Supplemental reports are submitted when:

(a) an employee begins lost time from work;

(b) an employee returns to work following absence from work for one or more days;

(c) an employee, after returning to work, has additional days of disability because of the injury;

(d) the employee has an increase or decrease in earnings during the time they are receiving benefits; and

(e) an employee with a workers’ compensation claim resigns or the university terminates the employment;

5) submit Employee's Wage Statement – DWC-3, when applicable; and

6) submit other reports as required.

NOTE: These forms are available from the Texas State Workers’ Compensation specialist.

c. Texas State's responsibility to the DWC:

Texas State must prepare and submit reports or information the commission requests to the DWC.

04.02 Injured Employee's Responsibilities

a. Immediately notify their supervisor or department head of any on-the-job incident or injury, or the first clear symptoms of illness possibly related to employment.

b. When medical services are needed for a work-related injury or illness, an employee has the right to the initial choice of a treating doctor that is an approved, SORM Medical Network Provider and accepts workers’ compensation. Employees may contact the Workers’ Compensation specialist for assistance in locating an approved workers’ compensation doctor.

c. Request completion of a [Supervisor’s Report of Incident, Injury, or Illness](https://www.fss.txstate.edu/ehsrm/workers/Supervisor-s-Report-of-Incident-Injury-or-Illness.html) (available from the Workers’ Compensation specialist) and [Witness Statement](https://www.fss.txstate.edu/ehsrm/workers/WorkerForms.html), if applicable.

d. File a claim for compensation from the injury or illness with the DWC (DWC-41, available from the Workers’ Compensation specialist) within one year of the injury or of the first distinct manifestation of the occupational illness.

If lost time from work occurs, the injured employee must sign an Employee's Election Regarding Utilization of Sick and Annual Leave, [SORM-80 Form](https://gato-docs.its.txstate.edu/jcr%3Aedfb9c36-dd80-4035-b274-7b49b84ec8b0/SORM-80_SickAnnualleave%5B2%5D.pdf). When choosing between Election 1 and 2 below, the employee must only consider accrued sick and annual vacation leaves (sick pool leave is not applicable).

1) Election 1 – Employee elects to use all accrued sick leave and

(a) all accrued annual leave (vacation);

(b) a portion of accrued annual leave (specifies number of hours); or

(c) none of accrued annual leave.

Employees must exhaust sick leave before using annual leave.

2) Election 2 – Employee elects not to use accrued sick leave or annual leave. Employee will not receive workers' compensation payments until after a seven-day waiting period. The waiting period begins the first calendar date after the last active workday.

NOTE: Employees who select Election 2 will change their work status to leave without pay (LWOP).

After exhausting elected leave entitlements under Election 1 or utilizing them during the seven-day waiting period under Election 2, the employee may receive temporary income benefits for the lost wages from SORM, if eligible, but not at full pay.

It is the employee's responsibility to report health progress, provide a current Work Status Report (DWC-73, available from the Workers’ Compensation specialist), and the expected date for return to work to the Workers’ Compensation specialist.

e. A classified employee with earned FLSA or state compensatory time may use it at the end of Election 1 after using their selected amount of sick and annual leave, or immediately with Election 2. The employee must present a written request to the Workers’ Compensation specialist in order to use compensatory time during the lost time period the employee is away from work due to a work-related injury or illness (Ref: Office of the Attorney General, Opinion No. [JC-0188](https://www2.texasattorneygeneral.gov/opinions/opinions/49cornyn/op/2000/pdf/jc0188.pdf), March 1, 2000).

f. Notify the Workers’ Compensation specialist when an employee needs immediate medical treatment and provide a preliminary copy of the supervisor’s injury report (available from the Workers’ Compensation specialist) as soon as possible, but no later than the next working day after receiving the injury or illness notification. The Workers’ Compensation specialist must evaluate and approve the medical release. If the doctor's release has limitations, refer to Section 01.02, Return-to-Work Program.

04.03 Immediate supervisory personnel (of injured employee) responsibilities:

a. complete and return [Supervisor's Report of Incident, Injury, or Illness](https://www.fss.txstate.edu/ehsrm/workers/Supervisor-s-Report-of-Incident-Injury-or-Illness.html) (available from the Workers’ Compensation specialist) and [Witness Statement](https://www.fss.txstate.edu/ehsrm/workers/WorkerForms.html), if applicable, for any incident, injury, or illness reported or known to have occurred (send the completed original witness statement to the Workers’ Compensation specialist within two workdays after submitting the supervisor's injury report);

b. notify the Workers’ Compensation specialist when an employee needs immediate medical treatment and provide a preliminary copy of the supervisor’s injury report within 24 hours or no later than the next working shift after receiving the injury or illness notification; and

c. fulfill the additional responsibilities of the supervisor:

1) disseminate information relating to accident prevention;

2) promote a safe and accident-free environment;

3) give prompt attention to the elimination of unsafe conditions, unsafe behaviors, or hazards; and

4) adhere to safety policies of the university and the State of Texas.

04.04 Department head responsibilities:

1. ensure the department institutes procedures to report all incidents, injuries, or illnesses;
2. notify the Workers’ Compensation specialist immediately to report any of the following:

1) any serious injury;

2) any work-related illness or injury resulting in death; or

3) accidents involving more than one employee;

1. review and sign the [Supervisor's Report of Incident, Injury, or Illness](https://www.fss.txstate.edu/ehsrm/workers/Supervisor-s-Report-of-Incident-Injury-or-Illness.html) (available from the Workers’ Compensation specialist) and take appropriate action. Distribute the report as follows:

1) retain a copy of the report in the department; and

2) forward the original report to the Workers’ Compensation specialist in the EHSREM Office;

d. provide the Workers’ Compensation specialist with necessary information for the preparation of the Employer’s First Report of Injury or Illness (DWC-1S, available from the Workers’ Compensation specialist). SORM must receive an Employer’s First Report of Injury or Illness (DWC-1S, available from the Workers’ Compensation specialist) from the Workers’ Compensation specialist within five calendar days after receiving notification of the injury;

e. ensure the employee’s time entry is up to date through the date of injury;

f. Employees who request to return to work after filing a workers’ compensation claim must receive administrative clearance from the Workers’ Compensation specialist before returning to work. Employees with a doctor's release that has defined limitations may return to work, if possible, under the Return-to-Work Program (see Section 01.02);

g. return to work with restrictions:

1. Department heads cannot allow an employee to return to work with medical restrictions without coordinating with the Workers’ Compensation specialist. The Workers’ Compensation specialist will review requests from department heads for employees to return to work with restrictions for applicability. Approval to return to work with restrictions will require the joint verbal approval of the Workers’ Compensation specialist and the employee's department head. The Workers’ Compensation specialist will follow up with an email confirmation of the approval.
2. Temporary assignment in a restricted-duty status under the Return-to-Work Program will not exceed 60 cumulative calendar days per claim.

04.05 Workers’ Compensation specialist responsibilities:

 The Workers’ Compensation specialist must have a thorough understanding of the benefits and administrative procedures necessary to coordinate workers' compensation claims for university personnel. Specific duties include:

1. provide personal briefings, if possible, to each employee who incurs a qualifying workers' compensation injury or illness. The briefing will apprise the worker of their rights and explain the procedures that will occur. The personal briefing will point out that the Workers’ Compensation specialist serves as the liaison between the employee, SORM, medical providers, and the employee's department;

1. ensure that immediate notification is made to SORM of any serious injury or work-related illness or injury resulting in death, or injury involving more than one employee;

1. complete and process all workers' compensation injury or illness reports and:

1) verify that the employee has lost one or more workdays, or has incurred medical expenses as a result of an injury or illness occurring in the course and scope of their duties;

2) forward reports to SORM; and

3) mail a copy of the DWC-1S to the employee;

1. administratively clear employees to return to work following a period of lost work time due to a work-related injury. Clearance to return to work will require a doctor's signed and dated statement (DWC-73, available from the Workers’ Compensation specialist) releasing the employee to return to work;

1. serve as the return-to-work coordinator; see Section 01.02 for the Return-to-Work Program;

1. assure that employees who have a restrictive release return to work only after joint approval of the department head and the Workers’ Compensation specialist; and

1. notify Human Resources of absences to coordinate Family and Medical Leave Act (FMLA) and other benefits.

04.06 Accident Prevention coordinator (director, EHSREM) responsibilities:

1. implement and administer the Accident Prevention program at Texas State; and

1. activities related to workers' compensation inspections and follow-up actions:

1) schedule inspections, coordinate state agency assistance visits with administrators, and workshops;

2) conduct accident prevention assessments of university facilities and operations to identify potentially hazardous conditions and unsafe behaviors and activities;

3) coordinate implementation of recommendations for elimination of hazards and unsafe behaviors and activities identified on assessments, investigations, or surveys;

4) provide department heads with relative data on inspection reports and follow-up activities (i.e., status reports) and provide assessment and investigation information to:

(a) vice president responsible for the department and activity;

(b) Workers’ Compensation specialist; and

(c) University Safety Committee;

5) communicate with SORM via regular university channels for outside correspondence.

**05. PROCEDURES FOR TERMINATION OF EMPLOYMENT**

05.01 [UPPS No. 04.04.40](https://policies.txstate.edu/university-policies/04-04-40.html), Disciplining and Terminating Staff Employees sets

termination procedures.

 Texas State will not discharge or in any other manner discriminate against an employee because the employee has:

1. filed a workers' compensation claim in good faith;
2. hired a lawyer to represent the employee in a workers' compensation claim;

1. instituted a workers' compensation proceeding; or

1. testified or is about to testify in a workers' compensation proceeding.

05.02 The university is not required to hold a job open for an absent employee for an indefinite period. The university may terminate the employment of an absent employee based upon the business needs of the department. The department will determine each situation on a case-by-case basis and identify the business reasons that justify terminating the employee under these circumstances.

05.03 In evaluating the business needs of the department, factors such as the following should be considered for termination:

1. whether the nature of the injury or illness prevents the employee from performing the essential functions of their position with or without reasonable accommodation. The employee is responsible for providing a medical prognosis showing when they can return to work;

1. whether other persons are available to perform the duties of the employee’s position during the employee's absence;
2. whether the employee can perform job duties in a timely manner enabling the employee’s department to accomplish its mission; and

1. the impact of the employee’s absence on other employees (e.g., an increased workload on other employees).

**06. REVIEWERS OF THIS UPPS**

06.01 Reviewers of this UPPS include the following:

Position Date

Director, Environmental, Health, May 1 E3Y

Safety, Risk, and Emergency

Management

Assistant Vice President for May 1 E3Y

Human Resources

Chair, Faculty Senate May 1 E3Y

Chair, Staff Council May 1 E3Y

**07. CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

Director of Environmental, Health, Safety, Risk, and Emergency Management; senior reviewer of this UPPS

Vice President for Finance and Support Services

President