

The realities of being injured on the job

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We all know that guy on our block who is on “permanent” disability – gets a check from his employer month after month but, hey, low and behold he’s darned sure able to crawl under the hot rod he’s fixing up, and he doesn’t seem to have trouble climbing up on his RV. But, no, he’s too messed up to sit at his work desk all day ... hmmm.

Then there is the other side of the equation: the person who is beaten by a student, permanently maimed, who not only can’t work but who receives no benefits, gets fired and then has no hope of future employment because of the career limiting injuries.

What is the system that results in these extremes (and these aren’t exaggerations)? Yes, the beautiful world of workers’ compensation. Historically, workers’ compensation was created to make sure that employers didn’t go under financially due to on-the-job injury lawsuits; a way of stabilizing the market. To that end, it limits the damages that can be received by injured employees and is governed by a completely separate set of very complex rules. Those rules result in some very screwy decisions, but – as we say in legal – it is what it is.

Despite its many flaws, workers’ compensation is here to stay, and as a school employee there are a few things you should know about the reality of the workers’ compensation system. First, if you are injured on the job and tell your doctor, your personal medical insurance won’t cover you – it’ll be a workers’ compensation claim. And as anyone who has been through the process can attest, getting reimbursement/coverage through that avenue is not an easy matter.

Plus, if it is later determined that the injury was not a covered injury after you reported it as one, neither workers’ compensation nor your personal insurance will cover you; you will be stuck in limbo where the only person left to foot the bill is, you guessed it, you. Additionally, your district in some cases can charge you for sick leave days (usually partial days to make up the difference between benefits and salary) for time off that is not covered by the workers’ compensation claim. That includes doctor’s appointments necessary for treatment.

Finally, if your physician determines that you are totally disabled (either permanently or partially) your employer can, in some cases, legitimately fire you for being unable to perform the essential functions of the job. Hence, exaggerating a claim can cost you dearly – can, in fact, make you unemployable – so be completely honest in every respect with your doctor, your employer and yourself.

If you are going to file a claim, it is important to file it with your employer when the injury occurs, especially if it is related to student violence. If you delay, the claim may later be barred if time restrictions are enforced by the court. Additionally, filing the claim with the district (your employer has forms available – if not, call us) puts them on notice that a potentially dangerous student is causing repeated injuries. If they fail to take action after multiple injuries and multiple notices relating to the same student, we may have a chance of suing the district outside of the workers’ compensation system. Yes, that only happens after you get the snot kicked out of you multiple times, but such is the beauty of the system.

As should be obvious at this point, workers' compensation issues are highly complex and we generally refer people to outside attorneys who focus solely on the workers' compensation arena to handle those claims. If you have specific questions, contact your OEA advocate and we can refer you to an area practitioner.