

Can my work-related injury or illness be compensated?

Injury or illness that can be shown to be caused or made worse by a worker's job is compensable in New Jersey. Certain union activities performed by NJEA members may also be covered under the workers' compensation provisions.

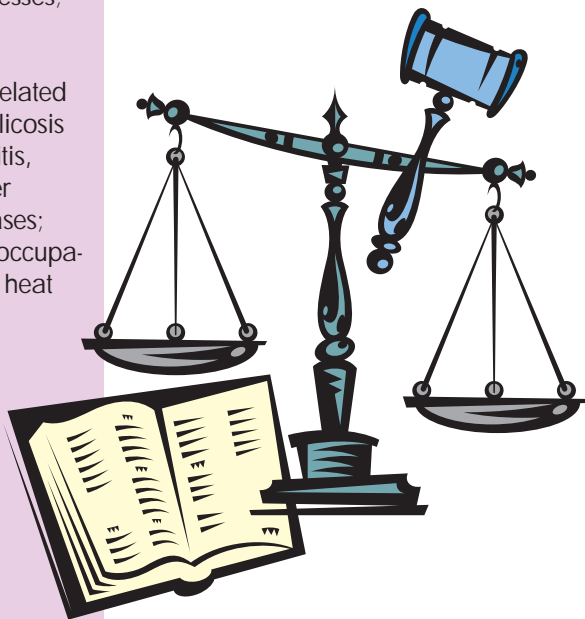
Injuries may include sprains, strains, fractures, cuts, lacerations, punctures, bruises, contusions, heat burns, welding flash, chemical burns, amputations, repetitive strain injuries such as carpal tunnel syndrome, and soreness or pain, including back pain. Hearing loss or ringing in the ears is covered in some circumstances.

There is no list of covered illnesses; all work-related illnesses are potentially covered. Illnesses commonly found to be work-related include asthma, asbestosis, silicosis or other lung diseases; hepatitis, HIV, TB, Lyme disease or other infectious diseases; skin diseases; malignant or benign tumors; occupational reproductive disorders; heat stroke and heat exhaustion; frostbite; and poisonings.

Conditions such as diabetes and heart disease that are sometimes work-related can be covered if the facts support that in individual cases.

Safety hazards in schools can cause injuries such as strains and sprains, broken limbs, back and spine pain, burns, and concussions. Health hazards can cause illnesses like dermatitis and occupational asthma.

The most recent data available shows that almost 3,000 work-related injuries and 100 work-related illnesses were reported by New Jersey's public schools in 2005 (source: NJ Department of Labor and Workforce Development, Labor Planning & Analysis, 2005 Survey of Occupational Injuries and Illnesses).



If all such instances were reported by school districts, these numbers would be much higher.

Fortunately, there are strong laws in New Jersey to compensate school employees harmed by unsafe and unhealthy working conditions. In addition to the Workers' Compensation Act, school employees are covered by NJSA 18A:30-2.1, which provides them with a full salary from the day of the incident without the absences being charged to sick leave. Together, these laws provide benefits that may include payment of:

- Medical benefits for reasonable and necessary medical treatment provided by the school board-authorized physician
- Full wages for up to one year (amounts received are tax exempt and pension credit continues to accrue.)
- Partial wages beyond one year (In New Jersey this is 70 percent of the gross weekly wages lost while out, subject to a cap of 70 percent of the state average weekly wage,

Workers' Compensation

Injured school employees entitled to benefits

which is adjusted annually. In 2007, the maximum is \$711 a week.)

- Permanent partial disability benefits
- Permanent total disability benefits
- Death benefits to surviving spouses and dependent children of workers killed on the job

Actions that local associations can take

To ensure injured workers' rights, local associations can:

- Make sure that workers take immediate action to preserve their sick days by contacting the regional UniServ field representative. Strict timelines apply to such claims.
- Ensure injured workers complete reporting forms as soon as possible to avoid forfeiture of benefits.
- Ensure that workers do not have to use their own health insurance, sick time, or vacation time while healing from work-related injuries and illnesses.
- Keep in touch with those who are harmed on the job, especially if they are not back to work. These workers need to see that their coworkers are concerned about their treatment and recovery. Such solidarity often helps with recovery and demonstrates that no worker is "disposable."

NJEA Legal Services

Restoration of sick days for work-related injuries, retaliation against members for filing a compensation claim or otherwise asserting compensation rights, and other contractual and statutory issues related to such injuries are covered by NJEA Legal Services. These services are accessed through your regional UniServ field rep.

Other legal services

Workers' compensation was designed to be a no-fault system. Unfortunately, school boards may delay compensation by arguing that injuries and illnesses are not work-related. This happens particularly with occupational disease cases. Therefore, the safest way to ensure eligibility for benefits is to have a lawyer on the worker's side who understands the compensation system.

Lawyers are not permitted to charge a fee in advance for handling

these cases. Fees will be fixed by the judge only if a compensation award is made. Fees are capped at 20 percent of the award, often payable 60 percent by the board and 40 percent by the worker.

Finding a workers' compensation lawyer

Although workers compensation claims are not covered under the NJEA Legal Services plan, many of NJEA's network attorneys handle such matters in their own practice. Your UniServ field representative or NJEA network attorney may be able to offer some leads. Other leads may be found through more traditional methods such as the recommendations of family, friends, and coworkers.

There are also several websites that may offer some leads such as www.findlaw.com, through the various county bar associations through www.njsba.com/lawyer_referral, or the American Bar Association's Guide to Legal Help at www.abanet.org/legalservices/findlegalhelp/home.cfm.

Actions members can take

To make certain that any potential workers' compensation case is handled fairly it is vital that members do not delay taking actions that create a record of the event.

- Report any work-related injury or illness immediately to the appropriate school personnel.
- Request immediate medical attention from a board-approved physician.
- Request that an incident report be prepared. Keep a copy for your records.
- Contact your local association president.
- Submit notes from the physician to your supervisor or school board office. Keep a copy for your records.
- Keep your board, supervisor, and local association up to date on your ongoing absences.
- Return to work when released by the physician.
- If the board charges your absences to sick leave, call your regional UniServ field rep.
- Ask for your case to be re-opened if the effects of the injury or illness significantly worsen within two years from the last date a benefit was issued or medical treatment rendered.