



## TEMPORARY TOTAL DISABILITY | Q AND A

### DO SCHOOLS HAVE TO OFFER LIGHT DUTY AFTER SCHOOL IS OUT TO SOMEONE WHO WAS HURT AT WORK, HAS RESTRICTIONS, AND WILL HAVE RESTRICTIONS INTO THE SUMMER?

The school needs to offer them light duty while school is in session, but it is not required over the compulsory vacation, until school starts again or regular work days. If light duty was not being offered and TTD (Temporary Total Disability) was being paid, TTD will continue into the summer while the employee is restricted.

Per multiple attorneys, the defense that has been used with a good faith basis is:

While generally vacation pay does not reduce TTD liability, pursuant to Wis. Stats. 102.43(8) there is no liability for temporary disability benefits when the “wage loss” is due to a compulsory vacation period scheduled in accordance with a collective bargaining agreement. So, if your injured teacher is back to work with restrictions, earning full wages, and then a compulsory vacation period begins (similar to a temporary plant shutdown for factory workers), that teacher would not be entitled to temporary disability benefits. Our attorneys have used this defense in the past for clients who employ food service workers on college campuses, which essentially shut down during the winter and summer breaks.

### WHAT IF THEY ARE COMPLETELY OFF SCHOOL AT THE END OF THE YEAR, ARE BEING PAID TEMPORARY TOTAL DISABILITY PAYMENTS, AND THEN ARE CONTINUED OFF DURING THE SUMMER?

Your carrier will need to pay Temporary Total Disability payments.

### WHEN AN EMPLOYEE IS ON LIGHT DUTY RESTRICTIONS, NOT LOSING ANY WAGES, AND IS RECEIVING THEIR REGULAR PAYCHECK, THEN DO WE OWE TTD ON TOP OF THAT DURING THE HOLIDAYS?

No, no work is being offered during the days the schools are closed, and the employees are not being deducted for not being at school. As there is no wage loss, and no penalty of sick / personal time, we would not owe any TTD for the holidays.

Insurance adjusters should review each claim on a case by case basis.

In short, no, you do not owe the benefits because the work-related disability needs to cause the wage loss, not a compulsory vacation period.

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