



**Safety and Health**

**On-the-Job Injury Program**

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# Clarksville-Montgomery County School System

## Safety and Health

### On-the-Job Injury Program

## I. General Policy and Purpose

Effective January 1, 2006, and pursuant to Tennessee Code Annotated §50-6-106(16), the Clarksville-Montgomery County School System (hereinafter “CMCSS”) elected not to participate in the Tennessee Workers Compensation law and elected to implement and administer an On-the-Job Injury (“OJI”) Program.

The purpose of this program is to provide uniform procedures for the reporting, medical treatment, and compensation of work related injuries or illnesses for eligible employees.

In general, this program provides for medical treatment, payment of medical bills, payment of lost wages, and payment of death benefits for eligible employees who suffer a work related injury or illness during the performance of their specified job duties during working hours and who comply with the rules and regulations of this program. This program exists in conjunction with all CMCSS policies and regulations, including but not limited to the CMCSS Employee Safety Policy. Refer to [RSK-A001](#).

## II. Eligible Employees

All CMCSS employees (including probationary employees), if eligible for CMCSS benefits, as defined in CMCSS Employee Handbook (HUM-M001), are eligible to receive OJI benefits as set forth herein.

Substitute employees are eligible to receive OJI benefits, depending on the terms of their respective individual contract / agreement for that given position and as set forth herein.

All other remaining CMCSS employees, if ineligible for CMCSS benefits, are not covered under the OJI program. Non-employees, student workers, volunteers (paid or unpaid), contract workers, temporary workers, seasonal workers and/or independent contractors are not covered under the OJI Program.

## III. Administration

The OJI program will be administered under the Safety and Health section of the Human Resources Department of CMCSS, under which these rules, procedures and guidelines are established. This policy, as with all policies adopted by CMCSS, may be subject to revision, change or modification as deemed necessary. **The online version of this program is the official program. Therefore, all printed versions of this document and any summaries thereof are unofficial copies.**

## IV. Benefits, Procedures, and Rules of the OJI Program

### *A. Reporting of Injuries and/or Illnesses*

1. All work related injury or illness whether or not requiring medical attention must be reported to the employee's supervisor and OJI Building Representative immediately. The employee's failure to file a written report of injury (Employee Injury Statement - [OJI-F003](#)) to the appropriate supervisor and assigned OJI Building Representative within 24 hours of the occurrence of the work related injury or illness will result in the OJI claim being deemed non-compensable.
2. OJI Building Representatives must call in notification of work related injury or illness to the Safety and Health Department immediately. In the event the OJI Building Representative is not available, it is the responsibility of the injured employee to contact the Safety and Health Department immediately. The following are the telephone numbers for such notification: 920-7917, 920-7806, 220-3317, 920-7836, 216-1971, 920-7976, or 217-4189.
3. It is the responsibility of the injured employee to immediately notify the OJI Building Representative and their supervisor of the injury or illness and complete the Employee Injury Statement ([OJI-F003](#)) within 24 hours of the time of injury. Reports of work related injury or illness must be filed with the Safety and Health Department by the OJI Building Representatives on all work related injuries or illnesses whether or not medical treatment is necessary. The OJI Building Representative should complete and approve by signature all such reports.
4. When an employee completes a written report of injury (Employee Injury Statement- [OJI-F003](#)), the employee does so with the knowledge that all OJI claims are investigated by the Safety and Health Department. By filing an OJI claim, the employee waives any right of privacy and understands the investigation may include an inquiry of the injury/illness occurrence, past and current medical treatment and care, treatment of the medical condition, and any other inquiry relevant to his/her claim. Completion of an Employee Injury Statement or attempting to file such a claim does not guarantee the approval of said claim. After an investigation of the OJI claim, the claim may be deemed non-compensable despite the fact that the employee may have received treatment by an OJI medical provider with Safety and Health Department approval. If, after the investigation, the claim is deemed non-compensable, bills for treatment prior to the investigation will be paid in full by CMCSS, and the employee will be responsible for all further treatment and medication. Any employee making a false or fraudulent claim will be subject to disciplinary action up to and including termination from employment with CMCSS.
5. By completing a written report of injury (Employee Injury Statement- [OJI-F003](#)), the employee authorizes the release of his/her protected health information from health care providers. The filing of a written report of injury authorizes CMCSS Safety and Health

Department to request copies of the employee's complete medical record, regardless of the stated areas of injury, and it is the responsibility of the employee to provide said complete medical record or to ensure that said complete medical record is provided to the CMCSS Safety and Health Department. Said complete medical record may be used in determining the employee's eligibility for benefits under the OJI program. This authorization is in effect for 365 days. If the injured employee refuses to comply with any request to furnish copies of the complete medical record, the injured employee's claim shall be closed.

## ***B. Medical Treatment/Benefits***

1. All medical treatment for a work related injury or illness requires the Safety and Health Department's approval. The eligible employee shall seek treatment only at authorized CMCSS designated facilities. CMCSS has the right to choose and/or change medical providers when necessary. Non-authorized treatment may void any future OJI benefits for said claim. **Any non-authorized treatment will be at the employee's own expense except in the case of life-threatening or limb-threatening emergency situations.**
2. In the event that an injury or illness is life threatening, (i.e., poisoning, convulsions, serious breathing difficulty, unconsciousness, major lacerations, smoke inhalation, head injuries or other acute conditions which would lead to disability or death if not treated emergently), the eligible employee should seek treatment at an emergency care facility. Once the employee is stabilized, CMCSS has the right to relocate the employee to a designated facility/medical provider. All follow up care must be coordinated with the Safety and Health Department. OJI coverage for such emergency treatment will be at the sole discretion of the Safety and Health Director. Notification must still be made to the Safety and Health Department by the injured employee within 24 hours of alleged work related injury.
3. For a work related injury or illness that is not a life threatening emergency but medical treatment is necessary, the eligible employee shall seek medical treatment at a Safety and Health Department approved location with prior Safety and Health Department approval.

If the authorized medical provider recommends that the employee see a specialist, CMCSS reserves the right to approve the specialist seen by the employee. No other treatment centers will be compensated or approved by CMCSS for medical treatment provided to an employee for an alleged work related injury or illness without prior approval from the Safety and Health Department. Failure to comply with these guidelines will void any future OJI benefits for the specific claim.

4. Any eligible employee suffering a work related injury or illness that requires medical attention is notified and understands that the OJI Specialist, Safety and Health Manager, District RN, and/or Safety and Health Director have the right to attend all appointments. All appointments are scheduled by the Safety and Health Department. The eligible employee suffering a work related injury or illness is not authorized to schedule or change appointments.

5. Any eligible employee shall follow all orders given to them by the CMCSS designated medical provider, including but not limited to: using prescribed medications properly; following modifications as required by medical provider; participating in physical therapy program; and keeping all medical provider and physical therapy appointments. Failure to comply with medical provider's orders will void any future OJI benefits for the specific claim.
6. Medical providers are required to adhere to the established medical fee schedule and all applicable requirements of this schedule as established by the July 1, 2005 Tennessee Workers Compensation Act, T.C.A. §50-6-204 and subsequent amendments thereto.
7. In no event shall the time period for receiving OJI medical benefits under this program exceed one calendar year from date of work related injury or illness. For employees that have worked for CMCSS less than twelve months, in determining the maximum duration of OJI medical benefits for any eligible employee, CMCSS will count the days or parts of days actually worked by the employee between the date employment began and the injury or illness occurred.

### ***C. Death Benefits***

In the event an eligible CMCSS employee has a compensable on-the-job injury which results in the employee's death, then the employee's surviving spouse or beneficiary shall be entitled to a lump sum OJI death benefit of \$70,000.00. This death benefit is in addition to any accidental life insurance that may be provided to employee as an employee benefit by CMCSS. If any accidental life insurance exists, the payments of any benefits thereunder are subject to the terms and conditions of the respective life insurance agreements. The OJI death benefit expires with the cessation of benefits of the employee's OJI claim. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the autopsy.

### ***D. Lost Wages Benefits***

Any eligible employee (including probationary employees) may receive 75% of employee's salary/wages. The employee may supplement this payment with sick and/or annual leave. The employee will not receive OJI lost wage benefits for days that he/she is not scheduled to work for CMCSS. Medical documentation from a CMCSS designated medical provider stating that it is medically necessary for the eligible employee to remain off work due to a work-related injury or illness or due to physical therapy in relation to a work-related injury or illness must be provided to the Safety and Health Department initially and every 30 days thereafter until the employee is released to return to work. **The maximum period of OJI lost wage benefits paid by CMCSS shall not exceed 90 days (three calendar months).** In no event will the period of time for which an employee may receive OJI benefits exceed the period of time for which the employee originally worked and the OJI benefits will be based on the hours per pay period that the employee would have worked. All benefits are limited specifically to those listed in this program, i.e.

medical treatment and loss of wages and nothing more. As needed / substitute/ non-guaranteed employees will not be reimbursed for lost wages, as future wages are not guaranteed.

After the initial three months of OJI benefits (medical and lost wages), the employee may continue to receive the medical benefits under the OJI program, if necessary, for an additional nine months from the date of injury or illness for a total of not more than 12 months of medical benefits. If after three months from the date of work-related injury or illness, the employee is not able to return to his or her previously held position, CMCSS provides an occupational long-term disability (LTD) policy. Refer to [LTD Policy](#). For definitions, criteria, and/or eligibility, please see the applicable insurance agreement which is maintained by the benefits office in the Human Resources Department.

The total maximum period of OJI medical benefits shall not exceed one calendar year from the date of the work-related injury or illness. If the employee is unable to return to regular full-time duties after the maximum OJI period has expired and is totally and permanently disabled from obtaining any employment, he/she may apply for disability benefits under the TCRS Guidelines if employee is qualified to do so.

If the employee cannot return to his/her job, is totally and permanently disabled, there is no job available within CMCSS which the employee can perform, and the employee does not qualify under TRCS, then the employee will be separated from employment from CMCSS subject to the rules, terms and conditions of the LTD policy and will be provided with long-term disability benefits under that policy. Refer to [LTD Policy](#). The cost of the policy will be paid for by CMCSS and will be provided to all regular full-time employees of CMCSS.

Any eligible part-time, employee of CMCSS may receive 75% of lost wages benefits for a work-related injury or illness except that the period of time for which he/she may receive OJI benefits will not exceed the period of time for which the employee originally worked and the compensation will be based on the hours per pay period the employee would have worked. The employee will not receive OJI lost wage benefits for days that he/she is not scheduled to work for CMCSS. In determining the maximum duration / amount of OJI benefits for said employee, CMCSS will count the days or parts of days actually worked by said employee over the one-year period prior to the report of injury or illness. For employees that have worked for CMCSS less than twelve months, in determining the maximum duration of OJI medical benefits for any eligible employee, CMCSS will count the days or parts of days actually worked by the employee between the date employment began and the injury or illness occurred. No employee will receive lost wages benefits that exceed their earned CMCSS wages from the previous twelve month period. The maximum benefit period shall not exceed the limits as set forth in this program. OJI program guidelines referring to eligible part-time employees apply as set forth herein.

### ***E. Acute Re-injury of Pre-existing Conditions***

This section does not supersede any exclusions, provisions, or rules of the OJI program. This OJI policy provides benefits for the acute re-injury of pre-existing injury or condition suffered by the eligible employee provided the acute re-injury occurs during the performance of the employee's respective specified job duties as provided herein. Please note the following guidelines:

- Claims of work-related re-injury of a pre-existing condition (whether known or unknown by the employee) must be medically documented to be causally related to a specific work task or essential function as per the employee's job description, AND
- Proof must be presented and confirmed that an anatomical change occurred to the pre-existing injury or condition for the claim to be compensable.
- Please note: Existing medical conditions which are present during the completion of an eligible employee's specified work task does not indicate a re-injury of an existing injury or condition unless medical documentation substantiates a new injury resulting from the performance of work as described in the employee's job description.

To receive OJI benefits under any of these above circumstances, medical records must be obtained by the injured employee from the previous treating physician regarding the existing medical conditions. Requested medical records must be received prior to further treatment beyond the initial evaluation, and fulfill OJI program guidelines in order for the claim to continue. If the injured employee refuses to comply with any request to furnish copies of the complete medical record, the injured employee's claim shall be closed.

If the employee has a known / unknown, yet untreated pre-existing injury or condition, CMCSS will not be responsible for treatment of such injury or condition.

If the pre-existing injury or condition was handled or adjusted under Worker's Compensation law, the employee understands that he/she still must follow the OJI program's notification requirements set forth in Section IV.A. Employee understands and agrees that if his/her pre-existing injury or condition was adjudicated or settled under Worker's Compensation law, the employee is bound by that settlement and/or order.

## ***F. Modified Duty Assignments***

When a medical provider allows the employee to return to work on a "light" or "restricted" duty assignment, the Safety and Health Department will contact the medical provider to determine the nature and scope of duties allowed under the specific physician restrictions. The medical provider will define the scope of duties that the employee can and cannot perform and the anticipated length of time the employee may be expected to remain on "light" or "restricted" status. Approved modified duty assignments are temporary in nature and will not be permanent job modifications.



Decisions as to whether there is a temporary “light” or “restricted” duty assignment will be made by the Safety and Health Department and appropriate Department administrators on a case-by-case basis. CMCSS will not discriminate on the basis of disability or any other protected status and will comply with applicable federal and state law with regard to issues of alternative duty, restricted duty, or reasonable accommodations. Refer to [RSK-A006](#) (CMCSS Administrative Policy- Modified Duty).

When an employee is released to return to work on “light” or “modified” duty by the approved medical provider, the employee is expected to report to the assigned work location. If the employee elects not to return to work, the employee will be responsible for using his/her own personal leave time. Should the employee elect not to return to work, the employee may be in violation of the CMCSS sick leave policy. Refer to [HUM-A029](#).

For employees who are placed on modified duty, the medical provider should review the employee’s job description affirming that the employee can perform assigned job duties.

## ***G. Employee Responsibilities***

As a condition of participation in the OJI program and the receipt of benefits thereunder, in addition to responsibilities set forth previously, the eligible employee is expected to practice safety awareness and exercise good judgment and common sense in the performance of his/her job and while on CMCSS premises and/or job locations. The employee also has a duty to ensure that his/her physical/emotional conditions are such that they have the mental clarity and physical ability to perform assignments, responsibilities and duties as related to his/her job, per his/her job description.

In addition, employees must report in writing to their supervisors all potentially unsafe conditions and any hazardous or safety violations which could contribute to or result in injuries to employees or others. Supervisors are obligated to correct or have corrected in a timely manner any unsafe conditions and/or safety violations which are reported to them.

When an employee performs a task that is within the duties of another department, he/she is responsible for following the safety rules of that department. An employee should **never** attempt to perform a task that he/she has not been instructed and/or trained how to perform. This includes, but is not limited to, any games, fitness, physical, or hazardous activities, or any activities that exceed the physical requirements of his/her job description.

## ***H. No Travel Reimbursement/Assistance***

There is no provision for travel reimbursement for an eligible employee who is covered under the OJI program.

There is no provision for travel assistance or arrangements for an eligible employee under the OJI program. Nothing in this OJI program obligates CMCSS to provide any travel

assistance or arrangements for an injured employee. Under extreme, dire and extraordinary circumstances, the Safety and Health Director has the discretion to authorize travel assistance.

## ***I. Exclusions***

Not all injuries, illnesses and health conditions that occur or manifest during an employee's working hours will qualify as OJI injuries or illnesses. The employee understands that all non-eligible or non-compensable injuries or illnesses will not qualify for OJI benefits including medical treatment and the employee will be responsible for his/her own health care for those incidents. The Safety and Health Department makes the determination of whether an injury or illness is work related and compensable.

The following categories of injuries or illnesses are excluded from coverage under the OJI program:

1. Injury or illness resulting from the adverse effects of prescription or over-the-counter medications which are related or unrelated to an on-the-job injury and/or illness.
2. Injury or illness resulting from the use of alcohol or from unlawful use of drugs.
3. Injury or illness resulting from misconduct, including but not limited to horseplay.
4. Intentional injury or illness, including self-inflicted injury or injury incurred while intentionally harming another.
5. Injury or illness resulting from failure or refusal of employee to use safety devices and/or personal protective equipment, failure to follow general safety precautions in performing one's duties, or working outside the scope of the employee's job description.
6. Injury or illness resulting from failure of employee to perform duties as required by law or failure of employee to follow CMCSS policies, procedures, handbooks, and any additional applicable rules and regulations.
7. Aggravation of work related injury or illness by off-duty activity.
8. Injury or illness suffered while traveling to and/or from work except in circumstances when such travel is in the performance of the employee's duty while driving a CMCSS-owned vehicle.
9. Health conditions which are attributed to the gradual onset of symptoms, associated with physical or mental changes, degenerative conditions (whether known or unknown to employee) or are attributed to repetitive motion.

10. Injury or illness resulting from participation in physical fitness, athletic, or recreational activities **unless** the activity is a part of an organized program approved by the department head **and** the employee's participation is made mandatory by the department head. Voluntary participation in such activities, whether during working hours or not, is not covered by the OJI program. These activities include, but are not limited to: any games, fitness, physical, or hazardous activities, or any activities that exceed the physical requirements of his/her job description.
11. Injury or illness resulting from participation in employee wellness activities.
12. Injury or illness resulting from an employee who chooses to work when directed not to work.
13. Injury or illness resulting from an accident in an employee's personal vehicle.
14. Injury or illness resulting from the employee's performance of duties that the employee has not been trained to do and/or is not required to do for CMCSS.
15. Injury or illness stemming from claims based upon individual respiratory sensitivity to air quality.
16. Injury or illness resulting from terrorist activities.
17. Injury or illness resulting from natural disasters, such as tornados, earthquakes, etc.
18. Injury or illness related to common contagious, communicable, or pandemic illness or disease.
19. Injury or illness stemming from claims of stress (mental, emotional, or physical tension, strain, or anguish), whether claims of immediate or post-traumatic stress.
20. Injury or illness without an acute cause that is reported due to the reported presence of pain.

## ***J. Cessation of Benefits***

OJI benefits will cease for an employee when one or more of the following conditions are met:

1. Termination of employment with CMCSS, either by resignation, retirement, discharge, or death, except for such coverage provided by any insurance policies specifically designated to continue after such event and except for any applicable OJI death benefit for which employee may be eligible.
2. Failure of employee to follow the medical advice or instructions of CMCSS's designated medical providers. This includes, but is not limited to: failure to follow

medical provider's restrictions, failure to attend scheduled appointments or treatments, and failure to take prescribed medications as directed.

3. Acceptance of employment by employee which would make the employee unavailable in his/her regular job.
4. Upon the completion of medical treatment by the employee or when the employee chooses to terminate medical treatment.
5. Upon the employee's return to work or directive to return to work without restrictions by the treating physician.
6. When the employee has reached the point of maximum medical improvement as indicated by the treating medical provider.
7. Inactivity of 30 consecutive days of an OJI claim (filed or logged).
8. Employee opting out of OJI is deemed a waiver of any claims or benefits under this plan.

PLEASE NOTE: The employee has 10 business days from the date of cessation of benefits to request that the case be reopened. Any request must be in writing and postmarked within 10 business days from the date of the letter indicating cessation of benefits. For requests received within 10 (ten) business days from the date of cessation of benefits, the final decision to reopen the case will be within the sole discretion of the Safety and Health Director. Any request received beyond 10 (ten) business days from the date of cessation of benefits will not be considered.

## **V. Right of Offset and/or Subrogation**

As a condition of participation in the OJI program and the receipt of benefits thereunder, the employee acknowledges and agrees that if the work related injury or illness was caused by the liability of a third party, CMCSS shall be entitled to subrogation for OJI benefits expended by it on behalf of the employee. The employee acknowledges and agrees that CMCSS has a right to assert a claim against the third party. If, however, the injured employee, or in the case of death, his/her dependents or next of kin, recovers damages against a third party for a work related injury or illness, the employee agrees that from the damages recovered and collected CMCSS shall receive and be paid back in full first the amount of OJI benefits paid by CMCSS to and/or on behalf of the employee. Moreover, if the damages recovered and collected are in excess of the benefits payable under the OJI program, there may be no further obligation on the part of CMCSS to pay benefits due to the work related injury, illness or death.

In the event of an action to recover for personal injury against CMCSS by an employee or personal representative of such employee, all OJI benefits paid to employee incurred through a work related injury, illness or death shall be disclosed to any court, and the amount of all such benefits paid

shall be deducted from any award against CMCSS in favor of the employee in any litigation arising from the occurrence of any such work related injury, illness or death.

## **VI. OJI Benefits Appeal Process**

- A. As set forth above, a member of the Safety and Health Department initially determines whether or not the claim is compensable. If it is determined that the claim is non-compensable, the employee shall be notified in writing via mail. PLEASE NOTE: The OJI Benefits Appeal Process is not applicable for any claim that is deemed compensable and meets the criteria for cessation of benefits. There are no further provisions under the OJI program once a covered claim meets the criteria for cessation of benefits.

In the event the claim is found to be non-compensable by a member of the Safety and Health Department, this decision may be appealed to the OJI Review Committee as set forth below.<sup>1</sup>

- B. The appeal must be requested by the employee in writing and received by the Safety and Health Director within ten (10) business days from the date of letter notifying the employee of the non-compensable determination. Upon requesting an appeal, the employee shall be notified of his/her right to submit any records, items, written materials or submissions and written statements to the OJI Review Committee within ten (10) business days of filing his/her appeal. All appeal information submitted by the employee shall be submitted to the Safety and Health Department.
- C. The OJI Review Committee is comprised of the Chief Human Resources Officer or his/her designee, the Chief Operating Officer or his/her designee, and the Director of Middle Schools or his/her designee. Upon the appeal of the employee and submission of materials by the employee, the OJI Review Committee shall review any records, items, written materials or submissions, and written statements submitted by or on behalf of the employee seeking OJI benefits. The OJI Review Committee will also review the existing OJI file and documents and materials therein of the appealing employee, and any written submissions that the Safety and Health Department deems necessary to submit to support its decision. The OJI Review Committee will receive the written materials and will make its decision on the submission of materials and items only. It will not conduct a hearing and will not receive oral statements or other live proof. The OJI Review Committee will make its decision within fifteen (15) business days of the submission of all materials as described herein.

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<sup>1</sup> The review shall be conducted in accordance with the provisions of the On-the-Job Injury Program (OJI-PRO1). The CMCSS classified employee grievance policy differs from the OJI Benefits Appeal Process and is not applicable to the OJI program.

- D. The OJI Review Committee issues a decision affirming, modifying, or reversing the non-compensability of the OJI claim and makes written findings of fact and conclusions. The decision must be unanimous and the written conclusions must be signed by all members of the OJI Review Committee. If the OJI Review Committee is unable to reach an unanimous decision, the underlying decision of non-compensability remains and the employee can choose to continue his/her appeal as provided below.
- E. The Safety and Health Department shall notify the employee in writing via certified mail of the OJI Review Committee's decision within three (3) business days of its receipt of the OJI Review Committee's decision. The employee shall also be notified that if he/she seeks a review of the decision of the OJI Committee, the employee must notify the Safety and Health Department in writing within ten (10) business days.
- F. If the employee requests a review of the OJI Review Committee's decision, the written documentation and material will be forwarded along with the OJI Review Committee's written findings of fact and conclusions to the Director of Schools or his/her designee. The Director or his/her designee shall not receive any new or additional evidence or materials. The Director or his/her designee reviews the record and accepts, modifies, or rejects the OJI Review Committee's decision and notifies the Safety and Health Department within three (3) business days.
- G. The Safety and Health Department notifies the employee of the Director's decision within three (3) business days of its receipt of the Director's decision.

## **Emergency Contact Information**

In the event of an emergency, the contact telephone numbers for the Safety and Health Department is as follows:

Safety and Health Director Office: (931)920-7836 Cell: (931) 216-1971

On-the Job Injury Specialist Office: (931) 920-7917

District Registered Nurse Office: (931) 920-7976

Safety and Health Manager Office: (931) 920-7806 Cell: (931) 220-3317

Coordinated School Health Supervisor Office: (931) 920-7827