Hi Pat and Sherry,

As per Judy at TML, they recommend that cities do not allow employees to supplement their pay past 90 days via personal or sick leave while on workers’ comp. In addition, they recommend that cities not allow employees to accrue sick and annual time while out on workers’ comp leave. With that said, when they arrive back at work they should be adjusted to the appropriate accrual rate if that increased due to seniority while they were out. (Most systems allow accrual of leave as long as an employee is being paid (including annual or sick leave), but NOT workers’ compensation pay.)

So, yes it is legal to prohibit the accrual of sick and annual leave while on WC, and even recommended.

Here is some brief language that can be tweaked to fit their needs. If you would like more detailed language, let me know and I will be happy to find other policy samples.

**Workers’ Compensation- General**

An employee of the city who suffers injury or illness as a result of an eligible work related accident or condition may receive compensation during the period of illness or injury by the State Compensation Insurance Fund in accordance with the Tennessee Workers’ Compensation Act. Workers’ Compensation pays an employee 66.67% of their weekly salary once the employee has been disabled for seven (7) days. Compensation will be made as of the eighth day of disability due to an occupational injury. If the employee is disabled for seven (7) days or more, workers’ compensation may pay the employee retroactively from the first full day of absence from work up to the return date. Employees receiving workers’ compensation payments **may not supplement their pay with accrued leave to receive wages in excess of 100% of their average annual salary.**

Employees must report any injury or illness incurred in the course of their employment, however minor, to their supervisor or Department Head. Failure to make such a report may disqualify the employee from receiving workers’ compensation benefits and receiving any injury leave.

**Maximum Medical Improvement**

Upon reaching Maximum Medical Improvement, the employee’s medical condition shall be assessed as to the permanent medical restrictions and their ability to perform the duties of their normal work assignment. If the injured employee cannot return to his/her regular position, **the City may attempt** to find employment within the employee’s department or within another department, if available. Reasonable accommodation will be provided to qualified disabled individuals unless the accommodation would pose an “undue hardship” on the city. Employees are not guaranteed that a position will be offered of that future employment is assured. If a conflict in this policy occurs, state law will prevail.
**Workers’ Compensation- Accrual of Leave**

Employees on Workers’ Compensation will not accrue sick leave/annual leave during the period of absence related to Workers’ Compensation. When an employee returns back to active work status their accrual rate will be adjusted, if applicable, to account for their full seniority with no penalty for time not worked while on Workers’ Compensation.

**Workers’ Compensation- Pay Supplementation**

Employees who are absent from work due to an eligible workers’ compensation claim may elect to use limited sick leave benefits for up to the first two (2) weeks the employee is absent from work due to the workers’ compensation related injury. The employee may not receive total pay in excess of their normal earnings (including workers’ compensation).

Bonnie C. Jones, M.A.Ed. | Human Resources Consultant | The University of Tennessee- Institute for Public Service | p: 865.974.0083 | f: 865.974.0423 | bonnie.jones@tennessee.edu | www.mtas.tennessee.edu