Unemployment Insurance In-Service

March 16, 2020
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Objective/Agenda:

• Overview of UI System
• UI Claim Forms
• Reasonable Assurance Notices
• Eligibility Requirements
Unemployment Department

- California Ed Code 1330 (c)
  - (c) Each county superintendent of schools shall have the responsibility of establishing, coordinating, and maintaining, either directly or by contract, an unemployment insurance management system for each school employer participating in the School Employees Fund under Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code. A management system shall include general administration, claims management, appointment of hearing representatives, representation of school employers at hearings, and other duties related to the unemployment insurance program in their jurisdiction. These duties and responsibilities may be delegated to any school district, community college district, another county superintendent of schools, or any combination of these entities, including programs under joint powers agreements for the purpose of consolidation for economy and employment of specialists, including the services of a regional data center operated by a county superintendent of schools or the data-processing services of a school district or a community college district. School employers not participating in the School Employees Fund shall be responsible for the development and maintenance of their own unemployment insurance management system required by this subdivision.
Unemployment Department

• School Employees Fund (SEF)
  – Joint, pooled-risk fund
  – Public school districts (K-12), Community Colleges & Charter Schools
  – Funded by UI quarterly taxes and LEC’s
  – Used by 99% of school employers
    • 72 Community College districts
    • 1,334 COE’s, public school districts and charter schools
  – Established in 1972
Funding

• UI Benefits are paid for by employers.

• How do we fund SEF?
  • Quarterly UI Taxes – current rate is .05%
  • Local Experience Charge (LEC)

• District Business and Advisory Services (DBAS) processes UI Qtly taxes on behalf of the districts.
Statement of Benefit Charges

- Who collected benefits during the quarter.
- How much each person collected.
- (-) indicates a credit.
Standard Base Period

- Approximately first 4 of last 5 completed quarters, prior to date the claim was filed
- The district is only liable for UI benefits if the district was a base period employer
- Alternate Base Period
Unemployment Claim Process

Separation

Claim

Protest

Hearing

The ER/CA assists in hearing preparation and provides hearing representation.

Appeal

Determination

Notification of eligibility or denial from EDD if timely response from employer.

Decision

The Administrative Law Judge’s (ALJ) decision affirms or reverses the EDD’s determination.

Appeal

The ER/CA reviews the ALJ’s decision to determine if further appeal is warranted.

Board of Review

The California Unemployment Insurance Appeals Board will notify ER/CA if the claimant files an appeal.

A claim is filed via phone or internet. The EDD sends request to employer (ER)/claims administrator (CA).

The ER/CA send information to the EDD.
UI Forms

• DE 1101C/Z – UI Claim
• Notifies last employer of claim filed
• Do not complete.
• Send via the UI secure portal @ https://scan.sccoe.org/Forms/UIStatus or fax to (408) 453-3679 to COE with basic work history
• 10 days to respond
Info to send with DE 1101C/Z

- Hire Date
- Job Title
- Last day worked
- Why employment ended
- Rate of pay
- # hours working
UI Code

• **Authorizes and requires** all employers to relay information to EDD

• **Willful failure to furnish relevant information can result in fine and imprisonment**
Reasonable Assurance (RA)

• A commitment by the school employer to reemploy the individual in the next term or in the resumed term.

• Communicated in an explicit manner
Reasonable Assurance

• Recess Period
  – Any week between two terms
  – Any one week recess within a term

• School Wages in Base Period
  – Wages earned from an educational entity

• Same or Similar Work
  – To have reasonable assurance, must be returning to SAME or SIMILAR work
Reasonable Assurance Letters

UI Code Section 1253.3 (i) requires:

• Written Notification to classified employees stating whether or not they have RA

• At least 30 Calendar Days prior to end of term
30 Day RA Notice

★IMPORTANT-

Send RA letters to classified employees at least 30 Calendar Days prior to the last day of school.

A Precedent Decision makes this imperative! EDD accepts no excuses.
How to Send RA Notices

• Issue letter at work site & have employees **date** & **sign receipt** OR

• Mail & keep a copy of actual letter w/name & address on the letter

• Issue all letters on same date if possible
RA Spreadsheet

- List employees in alphabetical order by last name with last 4 digits of the SS#.
- Include date RA letter delivered/mailed.
- Include employee’s title.
- If RA letter mailed, include employee’s address.
- If RA emailed, include the email address.
- If RA letter is delivered to school sites, include employee’s school site.
Forward RA Documentation

• Forward spreadsheet with names of employees issued RA letters before end of school year.
  – Combine all names into no more than 3 spreadsheets so we can easily locate the employee’s name e.g.:
    • Classified employees
    • Classified Subs
    • Certificated Substitutes

• Forward samples of RA letters to SCCOE

• Send copies of employees signed receipt
“Classified” Employees

Any employee who is non-instructional or Non-principal administrative

- Instructional Aides
- Clerical Workers
- Food Service Workers
- Hourly Yard Duty
- Transportation Workers
- Classified Substitutes
- Maintenance Workers
- Counselors
- Librarians
- School Nurses
RA Notice to “Classified” Employees

You are hereby notified that you have reasonable assurance of returning to work in your usual capacity in 2019/20 school year, after the summer recess period. You also have reasonable assurance of returning to work at the close of all holiday and recess periods during that year. Your services will not be needed during the 2019 summer unless you are notified in writing by (last day of school).

We are required by law to inform you that you may file an Unemployment Insurance (UI) claim. If you choose to file a claim, your entitlement to benefits will be determined by the Employment Development Department (EDD) and not by this school district. If you are not rehired after the recess period, you may be entitled to UI benefits retroactive to the date you filed an initial UI claim, if you are otherwise eligible and you filed a claim for each week, and if a claim for retroactive benefits is made within 30 days of the start of the next school year/term.

UI claims are filed on-line at www.edd.ca.gov or by telephone at 1(800) 300-5616. You will need to provide your Social Security Number and your last day worked. The address provided below should be given to EDD if you choose to file a claim:

(District Name)
1290 Ridder Park Drive, MC 264
San Jose, CA 95131-2304
Notice to “Classified” with No RA

TO: (Name of Employee)  
FROM: (Name of Human Resources/Business Official)  
SUBJECT: Notification of Reasonable Assurance for the 2019/20 School Year  
DATE ISSUED: (Date notice is delivered or mailed)

You are hereby notified that you do not have reasonable assurance of returning to work for us in the 2019/20 school year. You should file an Unemployment Insurance (UI) claim with the Employment Development Department at the close of this school year/term.

UI claims are filed by telephone (1-800-300-5616) or on-line at www.edd.ca.gov. You will need to provide your Social Security Number and your last day worked. The address provided below should be given to EDD when you file your claim:

(District Name)  
1290 Ridder Park Drive, MC 264  
San Jose, CA 95131-2304
If you choose to exercise your bumping rights, you are hereby notified that you have reasonable assurance of returning to work in a similar capacity in the 2019/20 school year, after the summer recess period. You also have reasonable assurance of returning to work at the close of all holiday and recess periods during that year. Your services will not be needed during the 2019 summer unless you are notified in writing by (the last day of school).

We are required by law to inform you that you may file an Unemployment Insurance (UI) claim. If you choose to file a claim, your entitlement to benefits will be determined by the Employment Development Department (EDD) and not by this school district. If you are not rehired after the recess period, you may be entitled to UI benefits retroactive to the date you filed an initial UI claim, if you are otherwise eligible and you filed a claim for each week, and if a claim for retroactive benefits is made within 30 days of the start of the next school year/term.

UI claims are filed by telephone (1-800-300-5616) or on-line at www.edd.ca.gov. You will need to provide your Social Security Number and your last day worked. The address provided below should be given to EDD if you choose to file a claim:

(District Name)
1290 Ridder Park Drive, MC 264
San Jose, CA 95131-2304
RA and Substitute Employees

• Substitutes are eligible during any recess if:
  • They remain on-call during the recess
    • PB 505 makes it the district’s burden to prove an employee is not on-call

• To reduce liability:
  • Keep a separate list of summer school substitutes.
  • Keep the list limited to number of substitutes you need for summer.
  • Inform substitutes if they are or are not on call
RA Notice to Substitute Teachers

TO:/ FROM:/ SUBJECT:/ DATE ISSUED:

You are hereby notified that you have reasonable assurance of returning to work for us in the 2019/20 school year as an on-call substitute. You also have reasonable assurance of returning to work in a substitute capacity at the close of all holiday and recess periods during that year. Your services will not be needed during the 2019 summer, unless you are notified in writing by (last day of school).

To update our files, please complete the attached form. If we do not hear from you by (last day of school), we will assume that you are willing to work without any restrictions. Please check the appropriate box. Be sure to sign, date and return the sheet to the Human Resources by (last day of school).

Please complete and return the entire sheet to Human Resources
I am NOT interested in being called to substitute for the 2019/20 school year.
I am interested in being called to substitute for the 2019/20 school year without restrictions.
I am interested in being called to substitute with the following restrictions
(indicate actual restrictions and not mere preferences):
I AM NOT AVAILABLE FOR: Grade level(s) ________________________
Subject(s): ________________________
(Days, time, work site ________________________
______________________
______________________
Signature _____________________________ Date ____________
TO/ FROM /SUBJECT/DATE ISSUED

**Newly Hired Certificated Substitute Employees**

You are hereby notified that you have reasonable assurance of returning to work in a substitute capacity at the close of all holiday and recess periods during the current school year.

**Newly Hired Classified Employees**

You are hereby notified that you have reasonable assurance of returning to work in your usual capacity at the close of all holiday and recess periods during the current school year. Your services will not be needed during the recess periods unless you are notified in writing.

We are required by law to inform you that you may file an Unemployment Insurance (UI) claim during school recess periods. If you choose to file a claim, your entitlement to benefits will be determined by the Employment Development Department (EDD) and not by this school district. If you are not rehired after the recess period, you may be entitled to UI benefits retroactive to the date you filed an initial UI claim, if you are otherwise eligible and you filed a claim for each week, and if a claim for retroactive benefits is made within 30 days of the start of the next school year/term.

________________________________________________________

Signature                                    Date
You are hereby notified that you have reasonable assurance of returning to work for us in the 2019/20 school year. You also have reasonable assurance of returning to work at the close of all holiday and recess periods during the 2019/20 school year.
Separation Issues

• Layoff

• Voluntary Quit

• Discharge
Layoff

- Usually eligible if laid off
- Issue EDD pamphlet “For Your Benefit”
  www.edd.ca.gov/pdf_pub_ctr/de2320.pdf
- Report any work offered after layoff
- Refer employees to EDD to file UI claim at
  www.edd.ca.gov or 1-800-300-5616
Voluntary Quit

• Eligible if real and substantial reason that would cause a reasonable person to quit under similar circumstances.
• The claimant has burden of proof to establish good cause
  • compelling reason
  • attempted to resolve any issues
Voluntary Quit

District should report:

• Who claimant notified of quit
• How notification was made
• Reason claimant gave for quit
• Was leave of absence available
• Notify employee of LOA policy whenever appropriate
• Any efforts made to resolve problem
Discharge

District has burden of proof to establish misconduct. Need to provide:

- Reasons for discharge
- Warnings
- Final Incident
Non-Misconduct

- Inability
- Poor job match
- Isolated incident of poor judgment
- Final incident was not misconduct
  - Tardy due to flat tire
False Statement Penalty

• False Statement or misrepresentation, concerning RA or separations

• Penalty is 2-10 times the claimant’s weekly benefit amount
  • $4500 maximum
UI Claims filed by Substitutes

• Subs may file for UI during the work year but they must:
  • Report wages earned each week
  • Be able and available for work
  • Accept all suitable work
UI Claims filed by Substitutes

- Send automated sub report showing calls and dates worked beginning w/date of claim
- Or, beginning with date of claim, provide:
  - Dates worked
  - Dates declined/canceled assignments
  - Dates unavailable
  - Any restrictions on availability
Notice of Determination DE 1080

- Notifies employers of EDD’s decision
- 30 days to file Appeal
- Our office forwards copy for your file
Hearing Preparation

• Extensive fact finding required
  • substantiated with documentation
  • first hand testimony may be required
  • declarations
Retiree Employment Restriction

• Public Pension Reform Act- Gov. Code 7522.56 (e)
  A retired PERS employee may not be employed by a public entity if he received UI benefits in the past 12 months, if UI claim is based on employment with a public employer.

• Must have retiree certify in writing at time of hire that he is in compliance with this act.
Quiz Review – UI Basics

1. UI Benefits funded by:
   B. Employer Taxes

2. Eligibility is determined by:
   B. State UI Codes

3. Weekly benefit amounts determined by:
   C. Employee’s earnings in the base period
Quiz Review – RA

1. Q. Reduced from 12 to 11 months.
   A. Eligible

2. Q. RA letter sent after school year ends.
   A. Eligible (not sent 30 days prior to end of school year).

3. Q. Aide reduced from 5 to 2.5 hours.
   A. Eligible (substantial reduction)
Quiz Review – VQ

An individual may be eligible for UI benefits when they resign, but only if:

1. They have a compelling reason to resign
2. They attempted to resolve the issue
3. They are able and available to work
4. All of the above
Quiz Review – Discharges

An individual is not eligible for UI benefits if terminated for misconduct. Which of the following statements are true:

1. An employee may be terminated for cause, but it may not be considered misconduct.
2. The employer has the burden of proof that a termination was for misconduct.
3. The final incident must be willful misconduct in order to establish the termination was for misconduct.
4. All of the above.
Any Questions?
Connect with SCCOE

• Social Media
  ![Facebook](facebook.png)  ![LinkedIn](linkedin.png)  ![Twitter](twitter.png)

• **Ed Bulletin** (e-newsletter)

• [www.sccoe.org](http://www.sccoe.org)