EDD Workshop

http://bolero.csustan.edu/EDD/

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Reason for Lecturer’s Eligibility

“Reasonable Assurance” & “Cervisi”

- 1st-time filers need confidence that they have legal right to UI benefits.
- This is well covered in Lecturer’s Handbook and online at the CFA.org website but should always be reviewed.
- http://www.calfac.org/lecturers.html
- UI Code sec 1253.3.g (WebLink -- indicates that this material will be found at or linked from -- http://bolero.csustan.edu/edd/)
CSU Now Accepts Lecturer’s Eligibility during summer breaks & between terms

- **CSU Technical Letter of June 2005** *(WebLink)*
  
  (An internal directive to HR staff from the Chancellor’s Office)

- **Part-Time temporary vs. Full-Time temporary**
  
  (Also defined in the same technical letter)

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“Unemployment Insurance Benefits for Temporary Faculty Employees

To qualify for unemployment insurance, a temporary faculty employee must be totally or partially unemployed and must not have ‘reasonable assurance’ of returning to work with an educational institution following the period without employment. The California Unemployment Code – Section 1253.3 (g) defines ‘reasonable assurance’ as follows:

• For purposes of this section, ‘reasonable assurance’ includes, but is not limited to, an offer of employment or assignment made by the educational institution, provided that the offer or assignment is not contingent on enrollment, funding, or program changes. An individual who has been notified that he or she will be replaced and does not have an offer of employment or assignment to perform services for an educational institution is not considered to have reasonable assurance.”

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“According to Section 1252 of the California Unemployment Code, an individual is considered ‘unemployed’ during any week in which ‘he or she performs no service and with respect to which no wages are payable to him or her.’”

“Article 12 permits conditional appointments for part-time temporary faculty employees. Part-time temporary faculty with conditional appointments do not meet the definition of ‘reasonable assurance.’ Therefore, these employees would be eligible for UI benefits between academic terms, even if they have multi-year contracts.”
“Full-time temporary faculty employees with non-contingent academic year or 12-month appointments are not eligible for unemployment insurance benefits during the winter or spring break. These employees are also not eligible during the summer break if a full-time appointment for the following academic year has been offered and accepted. If a new full-time appointment has not been offered, the employee is eligible for unemployment insurance benefits during the period from the end of the prior appointment until a new full-time appointment has been offered and accepted.”
Different “first” & “last” day for work & earnings

- There are two interpretations of these key dates.
- CSU System-wide Interpretation
- EDD Accepted Alternative
CSU System-wide Interpretation

- Begin & end dates per Academic Calendar
  - Lecturer will NOT be challenged.
  - Probably best for 1st-time filers

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EDD Supported Alternate

- **First scheduled day of teaching** (1st day worked)
- **Final Exam** or **Turn-in grades** (last day worked)
- This method results in about four additional weeks of UI over 12 months, but Lecturer **will be challenged** if use this method.
- Many EDD rulings ([WebLink](#)) support this method and Lecturer will almost certainly win if prepared with correct arguments.

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Using “Final Exam” or “Turning in Grades” as last day worked represent two different philosophies about how to prorate earnings. Each lecturer should use the one best understood and with which he or she feels most comfortable and confident defending before an Administrative Judge. Whichever is used, be consistent. Always use this method.
Opening Claim

- EDD Web Site (WebLink) or Telephone Interview
  - Critical to give CORRECT ANSWERS & understand (WebLink)
    - Lines 29, 30, 31, 33 (earnings line, may be cause to use telephone)
  - Will need to report earnings for last week employed (Line 27a) Calculator (WebLink)
  - Immediately log into CalJobs website (WebLink) to create and activate online resume

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If Opening Claim by Telephone

- It is crucial that *when you are asked*:

  Do you have a job, an offer of classes, or contract letter for the coming term?

  ANSWER: what you have is a **CONTINGENT offer based on funding, enrollment, and other factors.**
Bi-Weekly Claim Form

- Report other Earnings for weeks indicated
  - Other jobs for which earnings were made for indicated weeks (*not necessarily paid*)
  - Self-employment
- Never submit before date indicated on form
  - Form will be returned to be mailed again after the date specified.
- Never mail from outside one’s metro area
  - will look like on vacation
- Make copy of completed form for your records
- Never convey false information to EDD
group meeting becoming more routine
might be possible to avoid if
  create resume on CalJOBS website immediately after filing claim
  or make some change in existing resume at this site.

Log into CalJobs every two weeks and search for jobs. This keeps your “job search” active
Phone Interview

- Triggered by answering yes during initial filing that you are a
  - “School employee”, self-employed, or have other employment
  - EDD wants to ensure we are not public school teacher on recess or summer vacation
    (see “Correct Answers” above to avoid)

- If phone interview scheduled, important to give correct answers:
  - If said teaching or school employee (WebLink)
  - If said self-employed (WebLink)
Denial of Benefits Letter
(Shortly after beginning claim)

- Could be caused by:
  - EDD assuming lecturer has “reasonable assurance” because of indicating:
    - at initial filing that he/she is school employee
      (i.e., a teacher on a recess, see correct answers for claim form above)
    - or gave a start-date for a new term,
      (w/out clearly stating its “contingency”)
  - Lecturer’s HR office incorrectly reported status.
Denial of Benefits Letter (cont.)

- Documents to include in Response
  - Letter stating NO “reasonable assurance” ([WebLink])
  - Your personal employment letter with wording “contingent on….”
- Important to respond timely & correctly
Employer Reporting

- New law (AB2412) providing penalties to employers giving false information regarding “reasonable assurance” (WebLink)
If lecturer receives this letter, right to UI benefits is not in dispute.

Hence, “reasonable assurance” is not at issue and no need for items in above section.

The issue will be that you claimed zero earnings and were paid benefits for a specified period when the CSU reported you as working and having earnings.

This will happen usually because of one of the following:
A. Your campus reported earnings which in fact were deferred payments.

- **Documents to send:**
  - Letter explaining how our earnings are spread out over numerous months. *(WebLink)*
  - *CSU technical letter referring to “pay periods”* *(WebLink)*
  - Campus document showing when payments are made, if available (see your HR office)
B. Lecturer filed using “Alternate” method above

- Alternate method resulted in a week(s) at the beginning, or at the ending of the academic term when:
  - *lecturer claimed unemployed and was paid UI benefits.*
  - *campus reported earnings (& therefore work)*
- Results from the lecturer and CSU using different beginning and ending dates of employment & earnings.
  - This is sometimes referred to as the issue of, “different beginning and ending dates”)

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Documents to send:

- **Letter** explaining
  - that his/her contracted earnings are prorated over period of employment based on:
    - (whichever appropriate)
    - 1st day of work being first day of scheduled classes
    - last day worked was a) final exam or b) day grades submitted
  - that CSU prorates earnings over the entire academic calendar

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Documents to send: (cont.)

Example letters (Letter A & Letter B) (WebLink)
  Choose whichever letter the you best understand and feel confident of defending before an ALJ at a hearing (if necessary)

Keep letter to specific dates of individual

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Documents to send: (cont.)

- **Academic calendar** indicating both official begin and end dates (CSU basis of proration) and
- 1st day of scheduled classes and final exam week (lecturer’s basis of proration)
- Copy of **State Board of Appeals ruling** supporting “prorated for classes taught” and ALJ ruling to which it refers.
Notice of Denial of Benefits and Overpayment
(i.e., explanation & materials not sufficient)

- There will be two issues in the Denial letter:
  - Overpayment of UI benefits \(\Rightarrow\) repayment
  - “Willful” misstatement \(\Rightarrow\) penalty
- Send letter (by required date) indicating disagreement with decision and wish to appeal.
- Prepare for hearing using same arguments & documents used above
- Lecturer must fully understand & be confident in argument used in above letter

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Keep to facts of case as related to argument

- ALJ **does not** want to hear anything beyond these facts
- ALJ **does** want to have the facts on which to base a decision
  - i.e., clear statement of
    - lecturer’s 1st day of work (or last), and basis
    - CSU’s 1st day of work (or last), and basis

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Notice of Denial of Benefits and Overpayment

- Advise lecturer to contact campus UI rep
  - Campus UI rep should contact Dan or Michael, if needed
- Advise lecturer that file may be given to him or her upon their arrival at hearing location
  - If not, lecturer should request it when signing-in
  - All documents in this folder will be entered into evidence
- Advise lecturer not to be intimidated
  - Documents are simply the paper trail of all contact (phone or mail) with the lecturer & employer. Simply look over.
Thank You

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Typically the loss of one class will leave someone with enough earnings to cancel out their unemployment insurance benefit (UIB).

To figure out how much deduction there will be when working (partially)

- Multiply the earning for a week by .75 and that amount will be deducted from the UIB.
- Another way to look at it is that one may earn up to 133% of their UIB before it reduces to zero. So, the max UIB of $450/wk will zero out with > $600/wk in earnings.