

Unemployment Benefits Frequently Asked Questions

The following information is accurate to the best of our knowledge, however UESF Staff Representatives are not lawyers.

1. Where can individuals get information directly from the Employment Development Department (EDD)?

EDD offices and numbers are listed in the local white pages under California government.

EDD has a statewide phone number: 800-300-5616.

EDD has on its website a substantial section on Unemployment Insurance Information: www.edd.ca.gov

2. How do SFUSD employees apply for unemployment benefits?

To file a claim for unemployment insurance benefits individuals may call EDD at 800-300-5616. They must give to the EDD the following name and address for their employer: San Francisco Unified School District; Human Resources Department, Attn: UI Claims; 555 Franklin Street, 2nd Floor; San Francisco, CA 94102-5299.

Following the phone interview EDD sends a *Guide* and claim forms. Claimants may correctly answer “yes” to the question, “Did you look for work?” if they call the substitute office for work, or they are on call or have filed an update form or letter stating they are available and asking for work.

3. Seasonal and laid-off employees in other fields receive unemployment benefits. Why do substitutes and laid-off school employees have difficulty getting unemployment benefits?

The Unemployment Code makes no distinction between school employees who work a ten month calendar and other school employees. The Unemployment Code states that no school employee is eligible for unemployment benefits while school is in recess if he or she has reasonable assurance of being employed after the recess period. SFUSD routinely appeals all awards of unemployment benefits to all employees, even those who are likely to be eligible.

4. Why does SFUSD routinely appeal all awards of unemployment benefits to employees, even those who are likely to be eligible?

Unemployment benefits are funded by employers. The amount the employer pays into the fund depends on the number and salaries of its laid off employees. Because SFUSD routinely appeals awards, no ineligible employees receive awards and many eligible employees are too intimidated to apply.

5. When are school employees considered eligible for unemployment benefits?

Although employees usually have to be available for work in order to be eligible for benefits there is an exception for illness. For information on this exception consult EDD directly.

When school is in session school employees are considered eligible if they are available for work, but not offered an assignment. An employee may be eligible for unemployment benefits during a week **while** school is in session if he or she was offered an assignment of two or fewer days that week, did not turn down assignments that week and did not block out time making himself or herself unavailable that week. For more information on this possibility, consult EDD directly.

During a recess period--when school is **not** in session--school employees who do not receive “reasonable assurance” are eligible for unemployment benefits immediately following a one-week waiting period. (See: What is Reasonable Assurance? and What is an Update form?)

6. What is reasonable assurance?

Reasonable assurance is a written notice to a school employee that he or she will probably be rehired at the end of the recess period. When given such a notice the employee is usually denied unemployment benefits and the administrative law judge (ALJ) who hears appeals usually holds that the employee had such assurance.

In other words, if SFUSD said you would be re-employed you would probably be ruled ineligible for unemployment benefits. Only if you were not rehired when the recess ended would you be deemed eligible; in this case you would be owed benefits retroactively to the time you applied.

7. What is an update form?

At the end of each school year the district usually sends an update form on which substitutes and paraprofessionals indicate they are available for work. The substitute forms are returned to Substitute Teachers Office; 555 Franklin Street, Room 200-B; San Francisco, CA 94102. If individuals do not receive an update form they should write a letter to that address to advise the district that they wish to continue working for the district (for example, continue on the substitute list) and they should indicate when they are available for work: summer session, upcoming school year, which days of the week, etc. An individual who cannot commit to working one day per week may make an individual case and ask for special consideration.

8. Is summer session a recess period?

According to a 2004 ruling of the California Unemployment Insurance Appeals Board (CUIAB) in an action involving substitute teachers in SFUSD, a school district is not in recess when summer school is in session. According to this ruling school employees are therefore eligible for unemployment benefits if they are denied work during a summer session. SFUSD is suing in superior court to overturn this ruling. EDD alerted applicants for unemployment benefits that payment of benefits would be affected by the outcome of this case.

9. Why does UESF advise individuals that believe they may be eligible for unemployment to apply immediately?

An applicant is eligible for unemployment benefits only from the time he or she applies. If the applicant becomes eligible in June, but does not apply until September he or she will receive benefits only from September. Owing to a variety of circumstances, including giving priority for substitute jobs to laid off or displaced employees, some who receive letters of reassurance may, in fact, not be rehired when school resumes or may be offered a substantially different position. Each individual has to assess his or her own situation.

10. When may an employee be required to pay back money to EDD?

If an employee makes false or deliberately misleading statements he or she may be required to repay the EDD and may be fined and/or be forced to "sit out" a period of time when he or she is next eligible.

An employee who applies in good faith but is subsequently found to be ineligible may be asked to repay the money. When someone who is ineligible has filed in good faith the employee may appeal having to repay the money if paying it back would constitute an undue hardship. It is usually considered an undue hardship if the employee needs substantially all of his or her current income to meet current obligations. All reasonably necessary expenses count as current obligations, including food and clothing, childcare, rent or mortgage, loan, credit and car payments.

11. Who can appeal the decision of EDD?

If an employee or claimant is denied a claim for benefits the employee may appeal that decision to the California Unemployment Appeals Board and ask that benefits be granted.

If an employee or claimant is granted a claim for benefits the employer may appeal to the CUIAB and ask that the benefits not be granted or that they be paid back.

12. Which appellants may be represented by UESF?

Since unemployment matters relate to the state rather than the district, UESF represents only UESF members. Now that the new school year has begun UESF is sending to substitute and laid off members information on representation.

*UESF will offer to represent before the administrative law judge (ALJ) and/or the CUIAB those substitute members who were denied employment **during summer session** if they **filed an update form or letter** with the district prior to filing for unemployment insurance **and** one or more of the following apply:

- (a) They received a layoff notice from the district.
- (b) They did not receive a reasonable assurance letter.
- (c) They received notice from the district that they were being removed from the substitute list.
- (d) They were given reasonable assurance of a job that was substantially different from their Spring semester job.

*UESF will offer to represent substitute members claiming benefits for the period **before and/or after summer school** if they **filed an update form or letter** with the district **and** either of the following applies:

- (a) They were given no reasonable assurance or assurance of a job that was substantially different from their Spring semester job
- (b) They were not rehired into their Spring 2005 position when the school year began.

*UESF will offer to represent laid off regularly assigned members claiming benefits for the period before, during and/or after summer session if either of the following applies:

- (a) They were given reasonable assurance of a job that was substantially different from their Spring semester job
- (b) They were not rehired when the school year began.

13. Why is SFUSD suing the California Unemployment Insurance Appeals Board?

As stated above the CUIAB has ruled that school district employees are eligible for unemployment benefits if they are denied work during a summer session. SFUSD is suing in superior court to overturn this ruling. EDD alerted applicants that payment of benefits would be affected by the outcome of this case. (See: Is Summer Session a recess period? and Why does SFUSD routinely appeal all awards of unemployment benefits?)

14. What is a Real Party in Interest?

Certain substitute teachers were notified that they were Real Parties in Interest in this case. This means that they had a right to present information because the outcome would affect them. As usual, each individual had the right to represent himself or herself

15. Who is assisting CUIAB and the Real Parties in Interest?

The California Attorney General decided to file a response on behalf of the CUIAB decision, and thus represented the interests of the Real Parties in Interest.

16. When will we know the outcome of the SFUSD suit against the CUIAB?

The delay between hearing a case and rendering a judgment varies from days to months. UESF will inform our members as soon as practical after learning of the outcome.