



Update

December 6, 2004

• A Publication of the All Faculty Association at Santa Rosa Junior College •

Attn: Adjunct Faculty — You may be eligible for Unemployment Benefits

Adjunct faculty have the right to apply for unemployment benefits during breaks between semesters when they are not employed. For example, even if you have been offered an assignment for the Spring 2005 semester, you still may be eligible for unemployment from the date of your last final exam in December through the date of your first class in the spring.

According to a 1989 court ruling *Cervisi et al v. Unemployment Insurance Appeals Board*, **part-time community college instructors do NOT have “reasonable assurance” of being employed by the school employer in the succeeding school year, because of the contingent nature of their employment.** Specifically, the Superior Court concluded that “under the statute, an assignment that is contingent on enrollment, funding or program changes is not ‘reasonable assurance’ of employment.” Thus, you may be entitled to unemployment benefits between fall and spring semesters, between spring semesters and summer, and between summer and fall semesters. You may also be entitled to benefits between spring and fall if you were not offered a class during that time or if your class was cancelled.

In order to qualify, you must meet specific eligibility requirements, including total or partial unemployment. (Note: if you are also employed by a school district in a classified position, some restrictions may apply.) You are not expected nor required to look for employment outside of your line of work.

In order to file a claim for unemployment benefits, you will need to complete and submit an application. This can be accomplished in several ways: by telephone, on-line, by fax, or by mail. (See box to the right.)

The first time you apply to EDD, you will be subject to a one-week waiting period, for which

you will not receive benefits. (This one-week waiting period applies to each claim, which is for a one-year period. The waiting period will not apply to claims reopened within the one-year period.) Once you have submitted an application, you should allow ten days for processing. The EDD will mail you materials, including a Notice of Unemployment Insurance Award.

Your benefits will be based on the amount of your earnings during the four quarters of a one-year “base period” that ends approximately six months prior to the date of your claim.

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To file an application:

By phone (approx. 15 min.): Call the EDD between 8:00 a.m. and 5:00 p.m. Monday through Friday, except holidays:
To file in English: 1 (800) 300-5616
To file in Spanish: 1 (800) 326-8937
To file by TTY for deaf or hard of hearing callers: 1 (800) 815-9387

On-line (30-60 min.): To complete and file an application, log onto the EDD web site at www.edd.ca.gov/uifc.htm

By fax or mail (30-60 min.): Download the application form off of the EDD web site, print it, complete it and submit it:

By fax: 1 (866) 215-9159

By mail:

EDD

MIC 40-NET

P.O. Box 826880

Sacramento, CA 94280-0001

Unemployment Benefits *(continued)*

The effective date of your claim determines your base period and your benefit amount. Benefit tables and detailed information that will help you determine your base period and your benefits are available on the EDD web site or from AFA.

Senate Bill 40, which was passed in 2001, increased the maximum weekly benefit amount from \$370 to \$410 for new claims filed on or after January 4, 2004, and from \$410 to \$450 for new claims filed after January 2, 2005. Note: the rate established at the time your initial claim is filed will be applicable for one year from the filing date and cannot change during the year. This rate change may have an affect on your decision regarding the timing of your application submittal. For more information, see the EDD web site or contact the AFA office.

Occasionally, the EDD staff is not familiar with the regulations pertaining to adjunct faculty, and unemployment claims submitted by adjunct faculty are rejected. The right to unemployment benefits was established in March 1989, in the court case mentioned earlier in this article, *Cervisi vs. California Unemployment Insurance Appeals Board*. It is also referenced in Field Directive No. 89-55UI from the EDD Operations Branch to EDD Field Office Managers. If your request is denied, appeal the decision and refer to this court ruling and Field Directive. (The Cervisi decision, the Field Directive and sample language to use in an appeal letter can be found on the AFA web site at <www.santarosa.edu/afa> — click on the link that says Adjunct Faculty Unemployment Insurance Benefits Info.)

Note: Unemployment benefits are not a form of welfare. They are subject to federal (but not state) income tax. You may voluntarily request that EDD withhold 10% of your weekly benefits for federal taxation of UI benefits. You will receive a form 1099G at the end of the year. Be prepared to claim the benefits as income and to pay federal taxes.

AFA has assembled some information that will assist you in filing for unemployment benefits, including, among other documents, a copy of the *Cervisi* decision, a copy of the EDD Field Office Directive transmitting the *Cervisi* decision to EDD staff, sample language to use in an appeal letter, the

EDD Unemployment Insurance application form and other information from the EDD web site. This information can be found on the AFA web site at <www.santarosa.edu/afa> — click on the link on the left-hand side of the table on the home page that says Adjunct Faculty Unemployment Insurance Benefits Info. Or, if you would like to request a hard copy of this material, contact the AFA office at (707) 527-4731 or afa@santarosa.edu.

(Please note that the AFA office will close for the winter break starting at 3:00 p.m. on Thursday, December 16. Any telephone and/or e-mail messages left after that time will be returned when the office reopens on Monday, January 10, 2005.)

FACCC Helps with Unemployment Denials

If you are an adjunct faculty member whose unemployment benefit claim has been denied by the EDD based upon reasonable assurance of continued employment, you may be interested in contacting the Faculty Association of California Community Colleges (FACCC). Jennifer Baker, a FACCC legislative advocate, is working with EDD to help adjunct faculty resolve those denials. (Note: you must join FACCC, if you are not already a member, in order for them to provide you with this service.)

There is a form that you will need to complete and return to FACCC, which will give them permission to access your records and work on your behalf towards reaching a resolution with EDD. The form is available at <www.faccc.org> and is also posted on the AFA web site. If you have questions, contact Jennifer Baker at (916) 447-8555 or jbaker@faccc.org.

Note: Recently passed Assembly Bill 2412 requires that community college districts give the EDD accurate information regarding the status of part-time community college faculty when those faculty apply for unemployment benefits (or they may be fined).