



UPDATE

May 8, 2008

• 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 Fall 2008 semester, you still may be eligible for unemployment from the date of your last final exam in May through the date of your first class in the fall.

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

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What Do I Say in My Telephone Interview?

Be sure to let EDD know that you are a temporary, part-time employee who has been laid off for lack of work. If you have been offered an assignment for the fall/spring, explain that you have a **tentative assignment for the upcoming semester and that your assignment may be withdrawn at the District’s discretion at the last minute because of funding, enrollment, or other changes.** We also recommend having on hand a copy of Article 16 of the AFA Contract (posted online at <<http://www.santarosa.edu/afa/contract.shtml>>), in particular, paragraphs 16.06 and 16.07, which speak to cancellation of hourly assignments .

You should also mention your entitlement to benefits under the Cervisi decision, which states, “an assignment that is contingent on enrollment, funding, or program changes is not a ‘reasonable assurance’ of employment.”

To File an Application:

By phone: Monday through Friday,
except holidays;
8:00 a.m. – 5:00 p.m.:

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

By fax: 1 (866) 215-9159

On-line: <https://eapply4ui.edd.ca.gov/>

By mail: EDD
MIC 40-NET
P.O. Box 826880
Sacramento, CA 94280-0001

In filing your application/claim, please note that the name of your employer is “Sonoma County Junior College District.” Also, AFA is not affiliated with any state or national union and, therefore, does not have a local union number. We also do not control your hiring, help you search for employment, or “register” you if you are out of work.

Unemployment Benefits *(continued)*

restrictions may apply.) You are expected and required to actively seek employment, but not outside your line of work. EDD may ask you to post a resume on-line or attend a job search training session.

In order to file a claim for unemployment benefits, you will need to complete and submit an application to EDD. This can be accomplished in several ways: by telephone, by fax, on-line, or by mail. (See box on page 1.)

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, unpaid 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. 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 \$410 to \$450 for new claims filed on or 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. For more information, see the EDD Web site, or contact the AFA office at 527-4731 or afa@santarosa.edu.

Occasionally, the EDD staff is not familiar with the regulations pertaining to adjunct faculty, and unemployment claims submitted by adjunct faculty are denied. 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, you may appeal the decision, and refer to this court ruling and the Field Directive. (The *Cervisi* decision,

the Field Directive and sample language to use in an appeal letter is posted on the AFA Web site at: http://www.santarosa.edu/afa/adjunct_ui.shtml.)

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 unemployment insurance 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 on that income.

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 Benefits application form and other information from the EDD Web site. All of these documents can be found on the AFA Web site at: http://www.santarosa.edu/afa/adjunct_ui.shtml.

If you would like to request a hard copy of these materials, contact the AFA office at (707) 527-4731 or afa@santarosa.edu. Please note that, starting Tuesday, May 27, the AFA office will shift to a summer schedule. Voice mail and e-mail messages will be picked up and returned minimally once a week. We'll resume our regular Monday through* Friday schedule at the beginning of the Fall 2008 semester in mid-August.

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). Andrea Harvey, a FACCC legislative advocate, is working with EDD to help resolve those denials. You may also contact Andrea for help with the initial filing and with any denial claims. at (916) 447-8555 or aharvey@faccc.org.

Note: Assembly Bill 2412, passed in January 2005, requires that community college districts provide EDD with accurate information re: the reasonable assurance of continued employment for faculty who apply for unemployment benefits (or districts may be fined).