



UPDATE

May 13, 2009

www.santarosa.edu/afa

(707) 527-4731

Attn: Adjunct Faculty – You May Be Eligible for Unemployment Benefits

Unemployment benefits are not a form of welfare — they are an earned benefit for which you, as adjunct faculty, have the right to apply between semesters and/or terms. Even if you have been offered an assignment for the following semester (or term, in the case of summer), you may still be eligible for unemployment benefits from the date of your last final exam through the date of your first class in the subsequent semester or term.

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 sessions, and between summer sessions and fall

semesters. You may also be entitled to benefits between spring and fall if you requested but were not offered a summer assignment or if your class is 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 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 below.) Once you have submitted an application, you should allow ten days for processing.

Once a claim is established, it remains active for one year. The first time you receive a benefit, you will be subject to a one-week waiting period, for which you will not receive benefits.

(cont. on page 2)

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. (Do NOT say you are on a break.) 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 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. **NOTE: Keep your paycheck stubs to calculate your earnings.**

Unemployment Benefits *(continued)*

(This one-week, unpaid waiting period applies to each claim, which is for a one-year period. The unpaid waiting period will not apply to claims reopened within the one-year period.) The EDD will mail you materials, including a *Notice of Unemployment Insurance Award* and a *Benefits Handbook*.

EDD will normally send you a letter after you file for unemployment benefits telling you the date and approximate time that an EDD representative will call you for a phone interview, in order to ask you some clarifying questions. (See “What do I say in my telephone interview?” on page 1.) **DO NOT MISS THIS PHONE CALL** or you may be automatically denied benefits. If for some reason you cannot make the phone interview, you must call the general EDD phone number *before* your scheduled phone interview. After answering your phone call, an EDD representative will then transfer you to the phone interviewer. You can then explain why you will not be able to take the phone call from EDD at the appointed time.

The effective date of your claim determines your “base period” and the amount of your benefits. Basically, your benefits will be based on the amount of your earnings during the highest of four quarters within a one-year base period that ends approximately six months prior to the date of your claim. The weekly benefit amounts range from \$40 to \$450, depending upon earnings. The current Benefit Table and detailed information that will help you determine your base period and your benefits are available on the EDD Web site at www.edd.ca.gov/Unemployment/.

Note that federal legislation signed into law on February 17, 2009, allows for a weekly \$25 stimulus payment, which will be automatically added to each week of unemployment benefits, as part of the regular benefits check paid to eligible workers in California for weeks of unemployment that start on or after February 22, 2009.

EDD Notice of Potential Overpayment

Some adjunct faculty have reported receiving a *Notice of Potential Overpayment* from EDD. These notices typically occur due to a difference in payment reporting methods between EDD and SRJC. If you have received such a notice, AFA recommends that you contact Roz Ringle (527-4502 or rringle@santarosa.edu) or Lisa Hotchkiss (527-4200 or lhotchkiss@santarosa.edu) in the Payroll Department. They can provide you with a letter of clarification that you can attach to your appeal to EDD, which should resolve the matter.

What if my claim is denied?

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 *Cervisi* court case mentioned earlier in this article. 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: www.santarosa.edu/afa/adjunct_ui.shtml.)

Note: Unemployment benefits 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, copies of the *Cervisi* decision and 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: 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. Starting Friday, May 22, 2009 at noon, the AFA office will close. Voicemail and email messages will be returned minimally once a week throughout the summer, until we reopen 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 York, 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 ayork@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).