



# UPDATE

December 7, 2010

[www.santarosa.edu/afa](http://www.santarosa.edu/afa)

(707) 527-4731

## Adjunct Faculty: You May Be Eligible for Unemployment Benefits

Unemployment insurance (UI) 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 term, you may still be eligible for UI benefits from the date of your last final exam through the date of your first class in the subsequent term.

### Why are adjunct instructors eligible for unemployment benefits?

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 a succeeding school term 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 UI 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 UI 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. The California Employment Development Department (EDD) may ask you to post a resume online or attend a job-search training session.

### How do I file for benefits?

In order to file a claim for UI benefits, you will need to complete and submit an application to EDD. This can be accomplished in several ways: by telephone, by fax, online, or by mail. (See [page 2](#).)

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Once you have submitted an application, you should allow ten days for processing.

Be advised that it can be difficult to get through by phone, so our advice is to not wait until the last minute and to be patient. You may need to dial the number repeatedly before even getting in the queue to speak with a representative. In certain instances one cannot file online — for example, if you worked in another state in the past 12 months or are an owner of a business, regardless of whether the business is currently active or not.

### What happens next?

After you file for UI benefits, EDD will normally send you a letter 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 3](#).) 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 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.

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. (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.

### How much will I receive?

The effective date of your claim determines your “base period” and the amount of your benefits. In essence, 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. You may view the current Benefit Table and detailed information that will help you determine your base period and your benefits on the EDD Website at [www.edd.ca.gov/Unemployment/](http://www.edd.ca.gov/Unemployment/).

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## How to File with EDD



**Online (recommended):**

<https://eapply4ui.edd.ca.gov/>

**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

**By mail:** EDD

MIC 40-NET  
P.O. Box 826880  
Sacramento, CA  
94280-0001

In order to calculate your earnings for the UI application, keep your paycheck stubs. If you have direct deposit, you can view your *Advice of Deposit* forms online at [www.santarosa.edu/hr](http://www.santarosa.edu/hr). (Click on “Leave Balances/Pay Stubs” and log in with your Outlook user name and password.)

When filing your application, note that your employer’s name is “Sonoma County Junior College District”; AFA does not have a local union number as we are not affiliated with any state or national union; and AFA does not control your hiring, help you search for employment, or “register” you if you are out of work.

## Unemployment Benefits *(cont. from page 2)*

### Once I start receiving benefits, do I have to fill out any forms?

The EDD pays UI benefits after they receive a completed and signed Continued Claim Form, which they will send you within 10 days of processing your application. If, after reviewing your application and claim form, the EDD determines that you are eligible for benefits, the EDD will issue a check along with another Continued Claim Form. You'll need to submit a claim form every two weeks, reporting the date you last worked and any gross (before-tax) wages you earned in the week you worked, regardless of when you received your paycheck.

### Do I have to pay income taxes on the benefits?

Note: UI 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 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 on that income.

### What happens when my benefits run out if I haven't returned to work?

During periods of high unemployment, Congress or the State legislature may grant extensions of additional benefits. Further information about federal extensions of California's UI benefits is available at [www.edd.ca.gov/unemployment/Federal\\_Unemployment\\_Insurance\\_Extensions.htm](http://www.edd.ca.gov/unemployment/Federal_Unemployment_Insurance_Extensions.htm). Information about any available state extensions of UI benefits is posted at [www.edd.ca.gov/unemployment/Types\\_of\\_Claims.htm](http://www.edd.ca.gov/unemployment/Types_of_Claims.htm).

Note that the federal legislation signed into law on February 17, 2009 that allows for a weekly \$25 stimulus payment to be added automatically to benefits checks paid to eligible California workers was due to expire on December 5, 2010. If Congress approves an extension of the stimulus payment beyond December 5, information will be available at [www.edd.ca.gov/Unemployment/\\$25\\_Stimulus\\_Payments.htm](http://www.edd.ca.gov/Unemployment/$25_Stimulus_Payments.htm).

### 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 above. It is also referenced in Field Directive No. 89-55UI from the EDD Operations Branch to EDD Field Office Managers.

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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. (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](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."

## Unemployment Benefits *(cont. from page 3)*

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 are posted on the AFA Website at [www.santarosa.edu/afa/adjunct\\_ui.shtml](http://www.santarosa.edu/afa/adjunct_ui.shtml).)

### Where can I get more information?

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 Website. All of these documents can be found on the AFA Website at [www.santarosa.edu/afa/adjunct\\_ui.shtml](http://www.santarosa.edu/afa/adjunct_ui.shtml).

If you would like a hard copy of these materials, contact the AFA office at (707) 527-4731 or [afa@santarosa.edu](mailto:afa@santarosa.edu). Note: the AFA office will close for the winter break on Thursday, December 16, 2010 at 3:00 p.m. AFA staff will return voicemail and email messages at least once a week during the break. Regular office hours will resume starting at 8:00 a.m. on Tuesday, January 18, 2011—the first day of the Spring 2011 semester.



### AFA Publications Committee

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Do you have questions or comments? Is there information you'd like to see in an *Update*? Call 527-4731 or email us at [afa@santarosa.edu](mailto:afa@santarosa.edu).

Go to [www.santarosa.edu/afa/communications.shtml](http://www.santarosa.edu/afa/communications.shtml) to view, download, and/or print current and past issues of AFA's *Updates*, *Dialogues* and *Newsletters*.

### EDD Notice of Potential Overpayment

A few adjunct faculty members 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 Deepa Desai (527-4500 or [d-desai@santarosa.edu](mailto:d-desai@santarosa.edu)) or Lisa Hotchkiss (527-4200 or [l-hotchkiss@santarosa.edu](mailto:l-hotchkiss@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.

### Online Guide to Filing Process

To view the PowerPoint presentation from the "Filing for Unemployment Workshop" presented at the FACCC Education Institute's Part-Time Symposium in Fall 2009, go to [www.santarosa.edu/afa/Forms/FACCC\\_EDDPresentation.pdf](http://www.santarosa.edu/afa/Forms/FACCC_EDDPresentation.pdf).