**FREQUENTLY ASKED QUESTIONS (FAQs)**

**EDD AND UNEMPLOYMENT/UNDER EMPLOYMENT**

**APPLICATIONS AND BENEFITS**

***1. Application question: “Are you a member of a union?”***

**NO**. Although you may be a member of the United Faculty, as far as EDD is concerned you are not a member of a union. The United Faculty Association is a bargaining agent only for contract and working conditions. When EDD asks about a union, they are referring to trade unions such as the carpenters, pipe fitters, etc. who have their members register for work and they help them find work.

***2. Information about your very last employer.***

If you work in multiple districts they do mean the very last employer for which you did creditable work or whose semester/quarter ended last. If they both end on the same academic calendar date, just pick the one you work at the most.

***3. What is the full name of the person who was your immediate supervisor?***

For this answer you may use your department chair or dean.

***4. Last date worked.***

This would be the last date of the semester because technically you are still working for the district as you finish your finals and grades. Also the district is not paying you by the hour, if you are an instructor they are paying you by the course for the full 18 week semester (unless you are doing a short term or positive attendance class).

***5. “What are your gross wages for your last week of work?”***

Again because you are paid by the course, it would be the normal amount of hours you work per week doing instruction X your hourly rate of pay + office hours (X that rate of pay). So if you typically teach 2 3 hour classes + office time it would be 6 hours X instructional rate + 1 hour X office rate = gross for last week of work.

***6. Reason no longer working:***

Laid Off/Lack of Work

***7. Please provide a brief explanation:***

I am a part-time, contingent, Community College Instructor laid off with no expectation of reasonable assurance of reemployment. I have no contract and am covered by the Cervisi Decision (see #19 for more information on Cervisi).

***8. Do you expect to return to work for a former employer?***

NO. Since you do not have a contract, you have no expectation to return to work. Any written or verbal “offer” of a class for the next semester is NOT reasonable assurance to return to work. It is not a contract and it is non-binding. So if they ask, were you given a verbal commitment to return to work --- again the answer is NO.

***9. Do you have a date to start work?***

NO – again because your “possible” work is contingent upon enrollments and funding and you have a non-binding offer – you do not technically have a date to start work.

***10. Are you an employee of a school, educational institution, or training facility?***

NO – by Ed Code you are a temporary employee and are released from employment service at the end of each semester/quarter/inter-session. So you are not an employee of the district once the semester ends because you have no contract.

***11. Question 32 about expectation to receive “other” pay from an employer.***

Answer NO to all questions.

***12. Providing employment history for last 18 months.***

This is all inclusive of all jobs you may have worked in the last 18 months.

That includes educational and non-educational work. As to wages earned you can ballpark that amount based upon old W-2s or number of hours of instruction X rate and office hours X rate. If you receive parity money, you can include that as well at 7.8% for gross pay for instruction.

***13. Employer worked the longest.***

In this case you want to consider total work history (not last 18 months) and state approximately for how long you worked for X.

***14. “Are you available for immediate full-time work in your usual occupation?”***

YES. Regardless if you want full-time work, EDD expects you to say ‘yes’ that you are looking for and wanting full-time work in THIS field. That would also be the same on the bi-monthly EDD benefit form. All answers are NO, except the one that asks “Did you look for FT work?” – that one is YES. Even if you didn’t look for work and if you knew no colleges/districts were open to put in an application – that does not matter. The reality is that EDD expects that you are actively looking for “full-time” work in your field. If ever asked what you did to look for work, it can include such things as reading the Chronicle of Higher Education for job openings, going on the internet, calling Job Hot Lines and such.

***15. You must keep an up-to-date resume on CalJobs website and that is easy to set up and to update each term/year.***

***16. When can you apply?***

I would always wait to apply until the semester is “actually over”, that means the Monday after finals. Again you are being paid for the full semester all the way through finals through the ‘pay per course’ system. Only true hourly employees, like counselors and librarians or faculty doing short term or positive attendance rosters, are paid by the hour.

***17. Breaks in service.***

You are eligible for unemployment during breaks between semesters NOT during breaks during a semester. So winter break (Christmas) and summer break after the Spring semester ends are actually breaks in service because your obligation to the college (classes and assignments) have ended and you no longer have reasonable assurance to return to work. But Thanksgiving or Spring (Easter) breaks are not actual breaks in service because you do have reasonable assurance to return to work to finish your classes and assignments to the college. Also our district pays by the course (18 weeks X hours/week) which means they do pay us for holidays.

***18. Under-employment***

You are “under employed” when the load you are working is less than previous semesters and the amount you will earn is less than the EDD unemployment benefit. Remember EDD takes into consideration ALL employment, not just teaching. If you have a regular non-teaching job, whether PT or FT, you would not qualify for under-employment unless the load has significantly diminished.

***19. Cervisi Decision***

The court case defining unemployment for part-time community college faculty is CERVISI v UNEMPLOYMENT INSURANCE APPEALS BOARD, Feb. 1, 1989, which in states in part, “an assignment that is contingent on enrollment, funding, or program changes is not a ‘reasonable assurance’ of employment.” (Sec. 1253.3, subd. (g))

Part-time, temporary faculty of California community colleges are entitled to unemployment compensation for periods between semesters, including summer breaks. This principle was established in Unemployment Insurance Code 1253.3 and CERVISI v. CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD (1989) 208 Cal. App. 3d 654. But, since CERVISI, some public employers and many Employment Development Department (EDD) offices have deliberately or mistakenly ignored or misconstrued its holding.

CERVISI covers ALL part-time faculty members – instructors, nurses, librarians, counselors, and other academic employees. Faculty members obtain the benefits of CERVISI even if they receive an assignment for the upcoming school year and are assured of teaching at least one class session. Generally, that one class session is still subject to cancellation prior to the commencement of the class based upon enrollment, funding, or district needs.

Faculty members are entitled to unemployment benefits even if their employer requires them to sign a form stating that they have a “reasonable assurance” of reemployment. These adhesion agreements, known as “yellow dog contracts”, are null and void. The only measure of reasonable assurance is whether the assignment is contingent upon enrollment, funding, bumping, or district needs - saying there is reasonable assurance does NOT make it so.

EDD has written technical manuals to guide its offices in implementing the Unemployment Compensation System. With respect to CERVISI, the manual is defective because it does not ask the right questions. Many EDD offices look for any excuse to deny benefits; a few scofflaws routinely deny benefits. Since no California part-time faculty has a signed contract with their district/department guaranteeing them a teaching position for the next semester, we are entitled to unemployment compensation.

After filing, if you are contacted by personnel of the EDD, by all means quote the CERVISI case to them. Following CERVISI, EDD issued Field Directive 89-55UI, now part of its manual for EDD offices, describing CERVISI. Tell whoever from EDD is questioning you to look at Field Directive 89-55UI because it explains to all EDD personnel the definition of “reasonable assurance” and how CERVISI is to be applied.

As a warning, EDD is trying everything to discourage part-time faculty from claiming benefits, but don’t let that stop you. Even if you are denied benefits, you have a right to appeal and I will help you on this - an appeal doesn’t cost money. The denial is used as a roadblock to further frustrate part-time faculty from claiming unemployment compensation. I have yet to hear from even one part-time faculty who was turned down on an appeal. It is a simple procedure and CERVISI is the law and EDD cannot get around it even though it tries. EDD counts on part-time faculty not knowing their rights or becoming discouraged from pursuing them. Don’t give up though if you are refused; I will lead you through the appeals process.

Many unemployment offices around the state are closing and most claims are handled by telephone. Within California the EDD office can be reached at (800) 300-5616 between the hours of 8:00 AM and 5:00 PM. When calling in a claim you must have the following information available: Social Security number, the name of your very last employer, employer’s mailing address and zip code. When you call to file a claim, have the above information ready and follow the selections of the recorded messages. It is that simple.

To claim unemployment benefits, a claimant must be unemployed and not receiving funds from another job or other sources, such as retirement benefits. Unemployment benefits are not automatic; to receive these benefits the claimant must file a claim. A claimant cannot be forced to accept a job out of their field of employment.