



SISC

SELF-INSURED SCHOOLS OF CALIFORNIA

April 23, 2009

TO: District Superintendents and Key Contact Personnel
of Kern County School Districts

FROM: Russell E. Bigler, Chief Executive Officer
Insurance Services

SUBJECT: Notification of Reasonable Assurance of Employment

I know the economic situation all of you face is requiring you to continually evaluate your district's individual circumstances. You will need to utilize this same strategy concerning sending out Reasonable Assurance of Employment Notifications. With that as background, one of the most important aspects of unemployment insurance is the concept of "reasonable assurance" for school employees. The California Unemployment Insurance Code Section 1253.3 provides for a disqualification from receiving UI benefits during a recess period for employees who receive reasonable assurance of returning to work after a recess period. Failure to provide the proper written communication, where appropriate, could result in increased unemployment insurance rates in future years. Therefore, it is our recommendation that reasonable assurance notifications be sent as described in this memo (samples attached). Reasonable assurance notifications should be dated with a specific date and mailed as close to that time as possible. It is suggested you have a method of assuring that your employees have received this notification, either by signing a roster, sending by certified mail, or some other means.

CAUTION – Please do not send out a blanket notice of reasonable assurance to all employees. Districts should evaluate their own staffing needs and circumstances. A notification of reasonable assurance should not go to anyone receiving either (a) layoff notice, (b) notice of a reduction in hours, or (c) notice of non-reelection under Section 44929.21. If you are in doubt, please contact your labor negotiator or Schools Legal Service.

CERTIFICATED EMPLOYEES

Regular certificated personnel working less than 12 months, tenured and probationary teachers, administrators and all other certificated personnel, who have a continuing contract with the district and who have not received mandatory lay-off notices as required by Education Code Sections 44951 and 44955, have automatic reasonable assurance. No special letter of assurance is required.

A teacher on a temporary contract that expires at the end of the term is considered to be laid off and eligible for benefits unless, and until, the district can offer a new contract or position providing substantially similar economic terms and conditions. Districts should review their staffing needs and employees' work histories and, if possible, offer contracts before the end of the school year or as soon as possible during the summer. If this is not done, these employees can file for unemployment benefits. A sample notification of reasonable assurance for certificated employees is enclosed, please refer to Attachment A.

CLASSIFIED EMPLOYEES

Employees working less than 12 months must receive notification of reasonable assurance to return to work for 2009-10, as required by Unemployment Insurance (UI) Code Section 1253.3(i). See enclosed Attachment B. Notification should be sent no later than 30 days before the end of the academic year or term. The offer must be communicated in an explicit manner to the employee. You may use any format, but the notification should contain the following concepts/statements. The first three bullets are required by UI Code.

- The employee has reasonable assurance of returning to work after all recess periods.
- Nonetheless, the employee may file a claim for UI benefits. Entitlement for benefits shall be made by the Employment Development Department (EDD), not by the school district.

P. O. Box 1847 ♦ Bakersfield, CA 93303-1847 ♦ <http://www.kern.org/sisc/>
1300 17th Street - CITY CENTRE ♦ Bakersfield, CA ♦ (661) 636-4604 ♦ FAX (661) 636-4418

- If the employee is not offered an opportunity to perform services for the district in the next academic year/term, he/she may be entitled to UI benefits retroactive to the date the claim is filed, if the claim is filed within 30 days of the start of the next academic year/term and the employee is otherwise eligible.
- The status of the employee remains the same throughout the school year, including winter and spring breaks.

YEAR-ROUND

Year-round certificated and classified employees should receive some type of written communication informing each of his/her schedule for the year. The purpose of the communication is to confirm the employee has reasonable assurance of returning to work after the break. Notification should be sent out prior to July 1 of each year.

SUBSTITUTES

Substitute employees the district expects to use in the ensuing term are considered to have reasonable assurance of returning to work provided you have given notice of your intent to retain them on your substitute list, and each has indicated to you that they want to return to work in the same capacity for 2009-10. Send notifications only to those substitutes the district intends to continue to use for the next school term.

NEWLY HIRED CLASSIFIED EMPLOYEES AND ALL SUBSTITUTES **(Hired after regular reasonable assurance notifications have been mailed)**

All newly hired classified employees and all substitutes (classified and certificated) should be given notification of reasonable assurance at the time of hire. See enclosed Attachment C. This will inform the employee that they have reasonable assurance to return to work after all recess periods during the current school year.

SUMMER SCHOOL SESSIONS

Please pay careful attention to preparations for summer school sessions. Based on past precedents, the EDD and the administrative law judges will allow payment of benefits to claimants whose summer school classes are canceled due to insufficient enrollment. Districts should attempt to ensure that only a select and necessary number of summer school applicants are actually assigned, contracted, or committed to the session. It is suggested that you do **not** have a sign-up sheet so that an employee may indicate whether he/she is interested in working summer school. In EDD's view, that action makes the employee eligible for the summer school period; whether or not you offer him/her work. **It is recommended that districts establish a separate substitute list to be used exclusively during the summer session.**

If you have any questions about unemployment insurance or reasonable assurance notification, please contact Carmen Gonzales at (661) 636-4416 or cagonzales@kern.org.

Please send a copy of the following to Carmen Gonzales, SISC Finance:

1. Reasonable Assurance notification sent to Certificated and Classified staff.
2. List of employees receiving Reasonable Assurance notification.
3. List of Certificated and Classified substitutes receiving Reasonable Assurance.
4. List of Summer Session employees and substitutes, and summer session dates.
5. List of employees receiving lay off notices.

REB:yv
Enclosures

ATTACHMENT A

**Sample Notification of Reasonable Assurance for
CERTIFICATED Substitutes & Temporary Contract**

DATE:

TO:

FROM:

SUBJECT: Notification of Reasonable Assurance

You are hereby notified that you have reasonable assurance of returning to work for us in the 2009-10 school year as an on-call substitute. You also have reasonable assurance of returning to work in a substitute capacity at the close of all holiday and recess periods during that year.

Your services are not required during the summer recess period. However, if your services are needed for the 2009 summer school session, you will be notified by mail.

We will continue to need and rely upon substitute personnel to fill the many vacancies that occur throughout the year. For this reason, your name will be retained in the substitute pool for service in the 2009-10 academic year, unless you indicate to us otherwise.

You can be assured that you will be contacted and offered assignments in the same manner as in the previous school year. Your status will remain the same throughout the school year, including winter and spring recess periods.

The official mailing address provided below should be given to the Employment Development Department when filing a claim for unemployment insurance benefits:

<Name of School District (not school site)>
c/o SISC
P.O. Box 1808
Bakersfield, CA 93303-1808

Unless you notify us to the contrary, we will expect to see you after the summer recess.

ATTACHMENT B

**Sample Notification of Reasonable Assurance for
CLASSIFIED Substitutes & Less Than 12 Month Employees**

DATE:

TO:

FROM:

SUBJECT: Notification of Reasonable Assurance

The <School District> hereby notifies our **regular classified employees**, who work less than a 12-month schedule each year, that you have a reasonable assurance of returning to work in the 2009-10 school year, after the summer recess period. You also have reasonable assurance of returning to work in your usual capacity at the close of all holiday and recess periods during the year.

Classified substitutes have reasonable assurance of being called for substitute work in the 2009-10 school year, after the summer recess period. You also have reasonable assurance of being called for substitute work in the same capacity and number of assignments as you received this year. Your status will remain the same throughout the school year, including winter and spring recess periods.

You may, nonetheless, file an Unemployment Insurance (UI) claim. Your eligibility for benefits will be determined by the Employment Development Department (EDD) and not by this district. If you are not offered an opportunity to perform services in the next academic year/term, you may be entitled to UI benefits retroactive to the date you filed an initial claim; provided that you file a claim for benefits within 30 days after the start of the next academic year/term and if you are otherwise eligible.

The official mailing address provided below should be given to the Employment Development Department when filing a claim for unemployment insurance benefits:

<Name of School District (not school site)>
c/o SISC
P.O. Box 1808
Bakersfield, CA 93303-1808

This notification is the only official and authorized notification on which you should rely when determining your employment status for the next academic year/term. We look forward to seeing you after the summer recess.

ATTACHMENT C

**Sample Notification of Reasonable Assurance for
Newly Hired
Classified Employees and All Substitutes Employees
(For Employees hired after regular reasonable assurance notifications have been mailed)**

DATE:

TO:

FROM:

SUBJECT: Notification of Reasonable Assurance

You are hereby notified that you have reasonable assurance of returning to work at the close of all holiday and recess periods during the current school year.

I, _____, have read the above notification and understand that I have reasonable assurance of returning to work at the close of all holiday and school recess periods during the current 2009-2010 school year.

Signature

Date