

# UNEMPLOYMENT GUIDE FOR WEST VIRGINIA

## ELIGIBILITY

Individuals who lose their jobs are eligible for unemployment benefits if they are laid off, are fired for reasons other than misconduct, or resign for good cause. They must be able to work and be searching for a job. West Virginia teachers are eligible for unemployment benefits during breaks between semesters even if they have an assignment for the following semester. This is because West Virginia teachers are “temporary employees” and have no “reasonable assurance” of re-employment the following year. Their assignment is contingent on adequate enrollment, funding, program need, and district prerogatives. This is now the law as held by the California Court of Appeal in *Cervisi v Unemployment Ins. Appeals Bd.* (1989) 208 Cal.App.3d 635, 256 Cal.Rptr. 142, a lawsuit filed on behalf of California teachers. See *California Teachers Ass'n v State of California*.

Even if you are employed (teaching or doing other work) during summer or winter break, you may still be eligible for reduced unemployment benefits during the break. Similarly, if your teaching load is significantly reduced in the fall or spring semester, you may still be eligible for reduced unemployment benefits during that semester. In either situation you may be “underemployed.” Your eligibility and the amount of your benefits, if any, will depend on the amount of your income. The higher your income, the smaller your benefits. If in doubt, go ahead and apply. Just be sure to report all income. If your income is too high in any week, you will be denied benefits entirely for that week. You will not be penalized as long as you reported all income. If your income is not too high, you will still receive reduced benefits.

## WHEN CAN YOU APPLY?

You should apply as soon as possible after you become unemployed (or underemployed), but not before then. Your application is only retroactive to the Sunday of the week in which you apply. You will get no benefits for any prior weeks, even if you were eligible. Therefore, if you think you might be eligible for partial benefits during your last week of teaching, you must be sure to apply no later than Saturday of that week. If you are not entitled to any benefits until the following week, then you can apply any time Sunday through Saturday of that following week and still get benefits for that week. But it is still advisable to apply as early as possible in order to receive your first check as early as possible.

If you are laid off on the last day of the school year, you are deemed to work and are paid for that week. You are deemed to work and are paid for that week. You are deemed to work and are paid for that week.

If you apply online, it is recommended that you wait until you are actually unemployed as discussed above before applying. However, it probably doesn't matter if you apply before 5pm on your last day. If you apply by phone, then you will need to call well before 5pm, which is when EDD personal telephone service ends, to have any hope of getting through. In any event, you must apply no later than Saturday of that week if there is any chance that you will be entitled to reduced benefits for the week.

### APPLICATION PROCEDURE

One begins by filing an application online, by phone, or by fax/mail. The claim is good for 12 months unless extended. There is a one-week waiting period (no benefits) for each 12-month period. Benefits are determined separately for each week and are paid every two weeks.

Applying online is recommended. You can apply online any time at [www.edd.ca.gov](http://www.edd.ca.gov) (click on appropriate link to file application) or by phone M-F, 8am-5pm, at 1-800-300-5616. The online EApply4UI application form is fairly lengthy and contains some confusing questions for the uninitiated (discussed below) but there is no wait. Applying by phone involves fewer questions and an opportunity to explain your lack of reasonable assurance, but it may be difficult or impossible to get through by phone. (Supposedly you can get through by phone by dialing 130 or 240 immediately after the recorded message begins, but this has not been verified.) You can also apply by going to [www.edd.ca.gov](http://www.edd.ca.gov), completing application form DE 1101 (either complete it online and then print it or print it and then complete it by hand), and then mailing or faxing it to EDD.

If you have never applied before and intend to apply by phone, you might first go online and print out an application form so that you know what type of questions will be asked when you apply by phone (or at least read recommendations below). To print out the EApply4UI application form (not to be used for applying by mail or fax), go to <https://eapply4ui.edd.ca.gov/asp/cpgeApplyEntry.aspx>. (Note: Do not use this link to apply online because some preliminary questions must be answered before completing this form and applying online. To apply online you should start at [www.edd.ca.gov](http://www.edd.ca.gov).)

### HOW TO ANSWER CERTAIN QUESTIONS ON THE APPLICATION OR BY PHONE

Here are certain questions from the online EApply4UI application and some recommended answers. Similar questions appear on DE 1101 or may be asked if you apply by phone. If you answer certain questions online "Yes" (e.g., Number 22), then additional questions will appear (22a through 22g).

22. Are you a member of a union? [**"Yes" you belong to WE/AFT Local zz\_**

If Yes:

22a. Union Name: **Wplxgt uls{ 'Eqwpekl/'Co gtlecp'Hgf gt cvkqp'qhVgcej gt u**

22b. Union Number: **Ugg"WE/CHV'y gdukg'hqt'rqecni'pwo dgt**

22c. Telephone Number of Union: **\*732+479/65; 8**

22d-g: Answer "No" to each question: **[Note: these answers are extremely important to make clear that our union does not operate a hiring hall or help its members find work.]**

25. Information about your very last employer:

25a. Name of Last Employer: \_\_\_\_\_

25b. Number and Street/P.O. Box and Number: **[Use campus address]**

25c. City: \_\_\_\_\_ 25d. State: CA 25e. ZIP Code: \_\_\_\_\_

25f. Telephone Number of Last Employer: **[Use number for Human Resources, not the number for your department chair or supervisor]**

25g. What is the full name (first and last) of the person who was your immediate supervisor? **[Name of your department chair or supervisor]**

27. Last Date Worked: **[Either last day of service period\_**

27a. What are your gross wages for your last week of work? **[To calculate this number, see explanation below.]**

28. Reason No Longer Working: **Laid Off/Lack of Work**

28a. Please provide a brief explanation:

**My part-time teaching job ended. My nez'crr qlpw gpvis contingent on adequate enrollment, funding, program need. [Note: this answer is extremely important. You may need to omit the space between sentences to fit it all in. Omit second sentence if you do not have an ar r qlpw gpv'lgwgt.] \_\_\_\_\_**

29. Do you expect to return to work for a former employer? **["Yes" if you have ap'crr qlpw gpv'lgwgt', otherwise "No."]**

30. Do you have a date to start work? **["Yes" if you have an ar r qlpw gpv'lgwgt, otherwise "No."]**

If Yes:

30a. What date will you start work: **[Insert first day of the next service period.\_**

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

If Yes:

31 a. Are you returning to work for the next school session? **["Yes" if you have an ar r qlpw gpv'lgwgt, otherwise "No"]**

31 b. Has your employer given you reasonable assurance, either verbal, written, or implied, of returning to work for the next school session? **No [Note: this answer is extremely important.]**

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#33. List the names of all of the employers you worked for in the last 18 months, the dates you worked for each employer, the wages you earned from each, and how you were paid. Please also indicate the employer you worked for longest by selecting the radio button next to that employer.

Employer: **[If you worked for UC more than one term in the last 18 months, it is easiest to just list UC once for the entire period of time you worked for UC, even though you were “unemployed” between terms. If this becomes an issue, you will need to explain that you answered this way for simplicity but that you were in fact unemployed between terms.]**

Earnings: **[To calculate earnings at UC for the last 18 months, search online payroll system for paystubs from this period. If you apply before your last semester paycheck(s) is received, then you will have to also include income from the last paycheck(s) even though you have not received it yet.]**

How were you Paid? **[If you are paid on a term contract, none of the available options are appropriate. “Hourly” is recommended. Appointment contracts assume that a lecturer works a certain number of hours in a term, and so it is related to “hourly” pay in that sense. In the unlikely event that this becomes an issue, you will need to explain how your contract works, how none of the options was appropriate, and that you chose the best option available.]**

#37. Is your usual occupation seasonal? **No**

#41. Are you available for immediate full-time work in your usual occupation? **Yes [Note: this answer is extremely important.]**

### **WHAT HAPPENS NEXT?**

Every two weeks you must complete and promptly return by mail a short continued claim form answering certain questions and stating how much, if any, money was earned during each of those two weeks (more info below). A check is sent within a few days. If income was reported on the continued claim form, then a check for reduced benefits or no check at all will be sent depending on the amount of income reported. Note that the back of the continued claim form requires you to document your job search efforts. You do not need to fill this out unless the appropriate box on the front of the form requires it. —

You will receive a notice and instructions to register for work online. This must be done and is easy to do.

You may also receive one or more other types of notice (supposedly sent to randomly selected claimants). You may receive a notice of a telephone interview (usually only few minutes long). You should try hard to be available for the phone interview because it gives you a chance to explain your lack of reasonable assurance. If you are not available, your claim is decided on the basis of available information and benefits may be denied. You may receive a notice to attend a personal interview (15-30 minutes) or a group job search workshop (about an hour), each with a

strange sounding name. These are more inconvenient but should be complied with. Failure to attend could result in a penalty. The personal interview and group workshop also each require you to submit written documentation of your job search efforts, so be sure to keep a record of all such efforts. You may or may not be able to reschedule any of these events.

When you return to work the next semester, you can just stop returning the continued claim forms and you will get no more checks. Your claim will remain open for the balance of the 12-month claim period. But if you might be entitled to reduced benefits for either of the two weeks covered by the continued claim form, then you should mail the form, report the income earned and write "still working" in the appropriate space. If eligible, you will get a check for reduced benefits.

When you become unemployed again (the next summer or winter break), then you start the whole process over with a new application online or by phone whether you are starting a new claim or continuing with an open claim

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