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A Joint Powers Authority serving school and
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LEGAL UPDATE

April 8, 2013

To: Superintendents, Member School Districts (K-12)

From: Marko H. Fong, Assistant General Counsel *Mk*

Subject: Classified and Certificated Employees - Notification of Reasonable Assurance of Employment
Memo No. 05-2013

Classified Employees

In order for classified employees who do not work during the summer to be held ineligible for unemployment benefits, section 1253.3 of the Unemployment Insurance Code requires that districts give or send these employees a "letter of reasonable assurance" no later than 30 days prior to the last day of the academic year or term.¹ The Code requires very specific language. The attached sample letters comply with Code requirements.

Letter No. 1 is a sample letter for classified employees who work less than 12 months.

Letter No. 2 is a sample letter for categorical, special, or federally-funded classified employees who work for less than 12 months.

Letter No. 3 is a sample letter for classified substitutes to be used if the district has a classified substitute list.

Certificated Employees

It is generally not necessary to send letters of reasonable assurance to regular certificated or administrative employees because they are defined as "professional" employees with either explicit or implied contracts that serve as a "reasonable assurance" of re-employment. However, substitute teachers, particularly if they are on a list maintained by the District, do not have a contract and we recommend that certificated substitutes who have worked a substantial number of days (10 or more)

¹ Unemployment Insurance Code 1253.3(h) refers to the "end of the academic year or term" not the last day of service for the employee.

for the District also be sent a “letter of reasonable assurance” no later than 30 days prior to the last day of school.

Letter No. 4 is a sample letter to be used for substitute teachers who are on a substitute list or who have worked a substantial number of school days in the current year.

General

Districts should be aware that if the economic terms and conditions of an employee’s work change significantly (more than 20% reduction in income) after the recess between school terms, the notice of reasonable assurance does not bar the employee from collecting unemployment insurance. For instance if a summer layoff results in a reduction to a part-time position, the individual may be eligible for unemployment benefits.

Please contact any attorney in our office if you have any questions about this or other matters.

Attachments

(1) **SAMPLE LETTER OF REASONABLE ASSURANCE FOR CLASSIFIED EMPLOYEES WHO WORK LESS THAN TWELVE MONTHS.**

Date:
To: (name of employee)
Job Title:
From: (name and title of personnel official)
Subject: NOTIFICATION OF REASONABLE ASSURANCE FOR 2013-2014

The (name of the District) hereby notifies you that you have Reasonable Assurance of returning to our employ in the 2013-2014 school year. It is anticipated that the 2013-2014 school year will begin on or about (date). You will be expected to return to work on (date).

You may, nevertheless, file a claim for unemployment insurance benefits. Your entitlement to benefits will be determined by the Employment Development Department and not by this District. If you are not offered an opportunity to perform services in the next academic year or term, you may be entitled to retroactive unemployment benefits if you are otherwise eligible and you filed a claim for each week benefits are claimed, and if you file a claim for the benefits within 30 days after the start of the next academic year/term.

For the purpose of unemployment claim filing, the mailing address of record you should use is:

Name of District
District Office Address

Furthermore, this letter is the only official notification and authorized notification on which you should rely when determining your employment status for the next year. Please complete the attachment below and return that portion of this letter to the District personnel office no later than June _____.

_____ Yes, I will be returning in the 2013-2014 school year.

_____ No, I do not plan to return for the 2013-2014 school year and consider this my Notice of Resignation from employment with the District. If resigning, please indicate reason:

Signature

Date

(2) SAMPLE LETTER OF REASONABLE ASSURANCE FOR CATEGORICAL, SPECIAL OR FEDERALLY-FUNDED CLASSIFIED EMPLOYEES WHO WORK LESS THAN TWELVE MONTHS.

Date:

To: (name of employee)

Job Title:

From: (name and title of personnel official)

Subject: NOTICE OF END OF SCHOOL YEAR FUNDING/
REASONABLE ASSURANCE

This is to notify you that as of (indicate end of school year) there will be no work until funds for the next school year have been approved. At this time we expect to rehire you when school opens next fall. Notice of recall to work shall be by seniority and as available funds become verified.

(Optional - only include if correct: Please note that your medical insurance premiums will continue to be paid by the district through the summer months.)

You may, nevertheless, file a claim for unemployment insurance benefits. Your entitlement to benefits will be determined by the Employment Development Department and not by this District. If you are not offered an opportunity to perform services in the next academic year or term, you may be entitled to retroactive unemployment benefits if you are otherwise eligible and you filed a claim for each week benefits are claimed, and if you file a claim for the benefits within 30 days after the start of the next academic year/term.

For the purpose of unemployment insurance claim filing, the mailing address of record you should use for your last employer is:

Name of District
District Office Address

This letter is the only official and authorized notification on which you should rely when determining your employment status for the next academic year or term.

(3) **SAMPLE LETTER OF REASONABLE ASSURANCE FOR CLASSIFIED SUBSTITUTES.**

Date:
To: (name of employee)
From: (name and title of personnel official)
Subject: NOTIFICATION OF REASONABLE ASSURANCE FOR 2013-2014

The (name of school district) hereby notifies you that you have Reasonable Assurance of returning to work in this District as one of our Classified Substitutes for the 2013-2014 school year, which is anticipated to begin on or about (date). You can be assured that you will be called and offered substitute assignments after the start of the new school year when needed, if you choose to remain on our substitute list. As in the past, this District will experience a Thanksgiving recess, winter recess, and a spring recess during the 2013-2014 school year. Again following each of these recesses you will be called and offered assignments as needed.

You may, nevertheless, file a claim for unemployment insurance benefits. Your entitlement to benefits will be determined by the Employment Development Department and not by this District. If you are not offered an opportunity to perform services in the next academic year or term, you may be entitled to retroactive unemployment benefits if you are otherwise eligible and you filed a claim for each week benefits are claimed, and if you file a claim for the benefits within 30 days after the start of the next academic year/term.

For the purpose of unemployment claim filing, the mailing address of record you should use is:

Name of District
District Office Address

Furthermore, this letter is the only official notification and authorized notification on which you should rely when determining your employment status for the next year. Please complete the attachment below and return that portion of this letter to the District personnel office no later than June (____).

_____ Yes, I wish to accept this offer of continuing work as a substitute.

_____ No, I do not wish to accept this offer of continuing work as a substitute.

Reason: _____

Signature

Date

(4) **SAMPLE LETTER OF REASONABLE ASSURANCE FOR REGULAR
SUBSTITUTE TEACHERS**

Date:
To: (name of employee)
From: (name and title of personnel official)
Subject: NOTIFICATION OF REASONABLE ASSURANCE FOR 2013-2014

The (name of school district) hereby notifies you that you have Reasonable Assurance of returning to work in this District as one of our Substitute Teachers for the 2013-2014 school year for a comparable or larger number of days as past years. The 2013-2014 school year is anticipated to begin on or about (date). You can be assured that you will be called and offered substitute teaching assignments after the start of the new school year when needed, if you choose to remain on our substitute list. As in the past, this District will experience a Thanksgiving recess, winter recess, and a spring recess during the 2013-2014 school year. Again following each of these recesses you will be called and offered assignments as needed.

You may, nevertheless, file a claim for unemployment insurance benefits. Your entitlement to benefits will be determined by the Employment Development Department and not by this District. If you are not offered an opportunity to perform services in the next academic year or term, you may be entitled to retroactive unemployment benefits if you are otherwise eligible and you filed a claim for each week benefits are claimed, and if you file a claim for the benefits within 30 days after the start of the next academic year/term.

For the purpose of unemployment claim filing, the mailing address of record you should use is:

Name of District
District Office Address

Furthermore, this letter is the only official notification and authorized notification on which you should rely when determining your employment status for the next year. Please complete the attachment below and return that portion of this letter to the District personnel office no later than June (____).

_____ Yes, I wish to accept this offer of continuing work as a substitute teacher.

_____ No, I do not wish to accept this offer of continuing work as a substitute teacher.

Reason: _____

Signature

Date