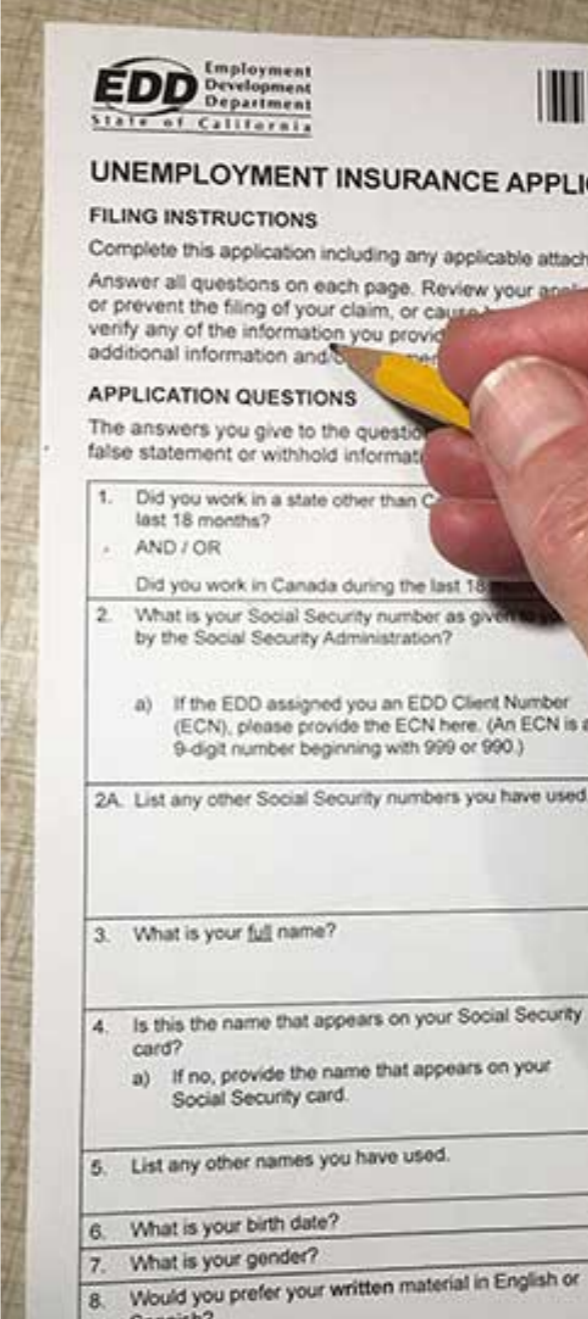

Unemployment Insurance Workshop

December 13, 2023
John Govsky



EDD Employment Development Department
State of California

UNEMPLOYMENT INSURANCE APPLICATION

FILING INSTRUCTIONS
Complete this application including any applicable attachments.
Answer all questions on each page. Review your application carefully to prevent the filing of your claim, or cause a delay in the filing of your claim, or to require you to provide additional information and documentation.

APPLICATION QUESTIONS
The answers you give to the questions on this application are a part of your claim. Do not give a false statement or withhold information.

1. Did you work in a state other than California during the last 18 months?
AND / OR
Did you work in Canada during the last 18 months?
2. What is your Social Security number as given to you by the Social Security Administration?
 - a) If the EDD assigned you an EDD Client Number (ECN), please provide the ECN here. (An ECN is a 9-digit number beginning with 999 or 990.)
- 2A. List any other Social Security numbers you have used.
3. What is your full name?
4. Is this the name that appears on your Social Security card?
 - a) If no, provide the name that appears on your Social Security card.
5. List any other names you have used.
6. What is your birth date?
7. What is your gender?
8. Would you prefer your **written** material in English or Spanish?

Disclaimer

- ❖ This presentation is not a substitute for professional legal advice.
- ❖ All information is current as of December 13, 2023.

UI Overview

- ❖ The unemployment insurance (UI) system is a unique federal / state partnership. It is administered and funded by the states, with guidelines and some funding from the federal government.
- ❖ In California, the Employment Development Department (EDD) is the agency which administers UI. The EDD is notoriously hard to navigate and is a generally unresponsive agency.
- ❖ In CA contingent faculty have very strong UI eligibility rights, due to the “Cervisi” state court decision.

Who Can Apply

- ❖ Generally, all contingent (adjunct) faculty members are eligible for unemployment benefits between terms.
- ❖ You are eligible even if you have been given and accepted an assignment for a future term.
- ❖ You may still qualify for benefits if you are “partially” employed.

When to Apply

- ❖ Your claim starts when you file, not when your assignment ends.
- ❖ Unemployment benefits are not retroactive.
- ❖ You cannot file early.
- ❖ It's usually best to apply as soon as the term ends.

“Reasonable Assurance”

- ❖ UI benefits are only for those who do not have “reasonable assurance” of being hired in the future.
- ❖ Adjunct faculty’s future assignments can be cancelled for a variety of reasons, which means they **do not have reasonable assurance of being rehired.**
- ❖ Full-time faculty (and K-12 faculty) **do** have reasonable assurance of working again starting with the next term, and so are not eligible for UI between terms.

The Cervisi Decision

- ❖ The “Cervisi” court decision holds that CA community college adjunct faculty can receive unemployment because they do not have reasonable assurance of being rehired.
 - ❖ This is true regardless of whether or not you have a future assignment, even if you have signed an agreement to teach, as the assignment can still be cancelled by the district.
- ❖ Cervisi is a state court decision which applies only to CA.
- ❖ Thanks to Cervisi, if you are denied benefits because the EDD says you have reasonable assurance, you will almost certainly win on appeal.

Claim Logistics

- ❖ There are two ways to file:
 - ❖ filing a **new** claim, or
 - ❖ filing to **reopen** an existing claim.
- ❖ A claim is good for one year.
- ❖ If you opened a new claim at the end of the last spring semester, then if you file in December for the winter break you are reopening an existing claim.
- ❖ If it has been over a year since you last filed a new claim, you will need to file a new claim again.

Benefit Award Calculation

- ❖ Your weekly benefit amount is based on your earnings of the **first four of the last five** completed calendar quarters prior to the beginning date of the UI claim (your “Standard Base Period”).
- ❖ For example, if you are filing in December 2023, your base period is the four quarters from July 2022 through June 2023.
- ❖ To establish a monetarily valid claim, you must have earned at least (1) \$1,300 in one quarter of your base period, or (2) at least \$900 in your highest quarter and total base period earnings of 1.25 times your high quarter earnings.

Benefit Award Calculation

- ❖ If you do not have sufficient wages in the Standard Base Period to establish a claim, the EDD will consider whether you qualify to file a claim using the Alternate Base Period. The Alternate Base Period can **only** be used to file a UI claim when there are not enough wages earned in the Standard Base Period to file a monetarily valid UI claim.
- ❖ The Alternate Base Period is the **last four** completed calendar quarters prior to the beginning date of the claim. For example, if you are filing in December 2023, your alternative base period is the four quarters from October 2022 through September 2023.

Benefit Award Calculation

- ❖ The **maximum unemployment benefit awarded is \$450 per week** (before taxes).
 - ❖ Unemployment insurance is taxable on federal income tax forms, but is not considered taxable on CA state income tax forms.
- ❖ If your highest quarter is \$11,674.01 or more you should get the maximum award of \$450 per week.
- ❖ For a new claim there is a one-week waiting period before your unemployment kicks in, so you will not get paid for the first week. There is no waiting period for a re-opened claim.

ID.me Account

- ❖ You will need to have an ID.me account (to verify your identity) before you can file for benefits:
<https://www.id.me/>
- ❖ To get an ID.me account, you will need:
 - ❖ Mobile phone with camera.
 - ❖ Photo ID (driver's license, passport, passport card, or state ID).
 - ❖ Email address.
 - ❖ Social Security number.
 - ❖ Laptop or computer (optional).

Info Needed for Filing

- ❖ **If you have FILED BEFORE**, you will need to know:
 - ❖ Your myEDD (previously EDD Benefits Programs Online) account login.
 - ❖ Your myEDD account password.
 - ❖ Note: If you have trouble logging in to your EDD account, you may find that your account becomes “locked” due to multiple attempts using an incorrect password. In this case you must simply wait (typically at least an hour) before you can try to log in again.
 - ❖ Your ID.me account login.
 - ❖ Your ID.me account password.
 - ❖ You will also need need to list the dates of **your previous UI filings of the past two years.**

Info Needed for Filing

- ❖ **For each employer, you will need to know:**
 - ❖ Your employer's name, address, and phone number.
 - ❖ Your immediate supervisor's name (probably your dean) and phone number.
 - ❖ The first date you worked for this employer (your date of hire).

Info Needed for Filing

- ❖ Your **last day of work** (the last day of the term that just ended). You can use the date of the last day of finals for the term.
- ❖ **Date to return to work** (assuming you have a future assignment). (See the note on one of the following slides.)
- ❖ If you are a union member, you will need to know your union's name, address, phone number, local number, and contact person's name.

Earnings Info Needed for Filing

- ❖ How much you **made in the last week you worked**.
- ❖ How much you **made per hour**.
 - ❖ There are a few different ways to calculate these numbers, as we don't punch time clocks and our work extends far beyond in-class time. Think of these figures as estimates; no one knows exactly how many hours you actually work. Do not stress over these numbers; just make a reasonable stab at it.
 - ❖ Your award amount will probably be based only on the numbers reported to the state by the district, and not on any of the numbers you use when you file!

Earnings Info Needed for Filing

- ❖ You may wish to print and fill these out before filing:
 - ❖ **Info Worksheet**
(lists general info you will need for filing)
<https://contingentworld.com/unemployment/InfoWorksheet.html>
 - ❖ **Earnings Worksheet # 2**
(for calculating hours worked and hourly pay)
<https://contingentworld.com/unemployment/EarningsWorksheet2.html>

Earnings Info Needed for Filing

- ❖ **For a NEW claim only you will need:**
 - ❖ For **each** employer, you will need your gross earnings for each of the last 6 calendar quarters (i.e. Jan-Mar, Apr-Jun, Jul-Sep, Oct-Dec).
- ❖ If you are filing during a month that you have not yet received a check for, you will need to estimate your current month's income (perhaps base it on your previous check) to calculate your earnings for this most recent quarter.
- ❖ You will not need all this info when reopening an existing claim.

Earnings Info Needed for Filing

- ❖ **For a NEW claim only** you may wish to use this interactive worksheet:
 - ❖ **Interactive Earnings Worksheet**
(for a **NEW** claim filed October 2023–December 2023)
<https://contingentworld.com/unemployment/earningsworksheet.php>
- ❖ You will only need to list your last 18 months of income for a new claim; you will not need to use this worksheet when reopening an existing claim.

Earnings Info Needed for Filing

- ❖ When reporting earnings to the EDD, **earnings are always calculated according to when the work was performed, not when it was paid for.**
 - ❖ For example, if the college pays for work performed in December with a check dated Jan. 3rd, remember that this is December income.
- ❖ When reporting earnings to the EDD, **earnings are always gross (not net or after taxes).**

Retirement Income

- ❖ Any retirement or pension income — with the exception of Social Security — must be declared, and will affect your benefits.
- ❖ Social Security income does not need to be declared, and will not affect your benefits.

“Gotcha” Questions

- ❖ Always remember: **You are never in a “recess period,” you are never on a “school break” in service, and your work is not “seasonal.”**
- ❖ Q: Are you applying for Unemployment Insurance benefits because you are currently in a recess period or on a school break?
A: **No.**
- ❖ Q: Has your employer given you reasonable assurance (a verbal, written, or implied agreement), that you will return to work after the recess period or school break ends?
A: **No.**

“Gotcha” Questions

- ❖ Q: Why are you no longer working for this employer?
A: **Laid off due to lack of work.**
- ❖ Q: Briefly explain in your own words the reason you are no longer working for your very last employer. Note: The information you provide will be shared with your last employer.
A: **My part-time teaching job ended. My next assignment is contingent on adequate enrollment, funding, program need, and district prerogatives.**
- ❖ Q: Is your usual occupation seasonal? (Work that can be performed year round such as teaching at a school, tax preparation, or retail work is NOT considered seasonal work.)
A: **No.**

“Gotcha” Questions

- ❖ Q: Do you have a return to work date for any employer?
A: [If you have an assignment for the upcoming semester] **Yes, I have a date to return to work.**
 - ❖ Note that most guides for adjuncts filing for unemployment advise answering “No” when asked if you have a date to return to work, even if you have been given a start date. This is because, even though you have been offered an assignment, it is not a guaranteed assignment, as it may be cancelled for a number of reasons.
 - ❖ It’s your call as to how you wish to answer this question. If you answer Yes, it may trigger a phone interview, in which case you can make clear that your assignment offer is contingent on enrollment, funding, district needs, etc., and is therefore not “reasonable assurance” of employment.

Union Questions

- ❖ Q: Does your union or non-union trade association look for work for you?
A: **No.**
- ❖ Q: Does your union or non-union trade association control your hiring?
A: **No.**
- ❖ Q: Are you registered with your union or non-union trade association as out of work?
A: **No.**

Filing Tips

- ❖ The EDD will log you out after 30 minutes on any page. This is why it's a good idea to have all the needed info handy before you file.
- ❖ The EDD recommends using the latest version of the Chrome or Firefox browser when filing.
- ❖ Every so often in the process you will see a "Save as Draft" button. Whenever you have the chance you should save a draft, as the last saved draft is what you will have to start with again if you lose the workflow.
- ❖ Always list your **mobile phone number**, if possible, and not a land line. If scheduled for a phone interview, you will then not have to wait by the phone to receive the call from EDD, a call that you do not want to miss.

Filing Tips

- ❖ **Don't bother trying to "correct" the employer address.**
 - ❖ If the EDD populates the fields for your employer, you may see what appears to be an incorrect address for the employer that you worked for. Many colleges contract out with a third party, such as a credit agency, to administer unemployment claims. So you may see an address used by this third party listed as the address of your college. Simply ignore this and do not try to "correct" this address.
 - ❖ It won't hurt to correct the address, but it will add unnecessary time to the filing process.
- ❖ But when asked if the mailing address is different than the physical address, you can then enter the actual college address.

Filing Tips

- ❖ **About the first date you worked for an employer:**
 - ❖ When asked for the first date you worked for an employer, should you enter your initial date of hire, or the beginning of the last term for which you were hired? Enter your initial date of hire. But if you can't remember when that was, you can just enter the start date for the last term you worked. It doesn't seem to matter.

Save Your Filing!

- ❖ As one of the last steps of the online filing process, you will be presented with an overview of all your answers. Before submitting your claim, save a copy of this page as a PDF, or print it out, for future reference.
- ❖ **Once again, for emphasis:
Save a copy of your application!**

After Filing

- ❖ About a week or two (usually) after filing you will receive some or all of these things in the mail:
 - ❖ A **“Notice of Unemployment Insurance Claim Filed.”** Review this document, as you only have 10 days to correct any errors.
 - ❖ An EDD **“Customer Account Number Notification”** listing your number. (Do not lose this, as you will need this number when set up your online account.)
 - ❖ A **“Notification of Unemployment Insurance Benefits Eligibility Interview.”** This is very important, as you will probably be scheduled for a phone interview. Make sure you are available to receive the call. (On rare occasions you may be given an appointment for an in-person interview, or required to attend a job-search workshop.)
 - ❖ A **“Notice of Unemployment Insurance Award”** which tells you how much you will be getting paid.

After Filing

- ❖ Some of these documents may be available for you to view online as early as a day or so after you file, but will probably take quite a bit longer.
- ❖ Log in to your account at <https://portal.edd.ca.gov/WebApp/Login> and then click the "UI Online" link to see your notifications, appointments, and claim summary.
 - ❖ You may wish to periodically log in to your account, as notifications will usually appear there before you receive them in the mail.
- ❖ You may be required to register as out-of-work with **CalJobs** at <https://www.caljobs.ca.gov>
This doesn't take long to do online, so if EDD tells you that you have to do this then you should do it, or it may affect your benefits.

After Filing: the “EDD Black Hole”

- ❖ In some cases after you file you will receive no response at all: nothing in the mail, no email notifications, nothing. It can feel as if something went wrong and they never received your application. This can continue for weeks or even months.
- ❖ Do not file again, as this can complicate your situation. (Remember that your claim starts with your filing date.)
- ❖ After a few weeks of waiting, first try calling the EDD by phone to reach someone who can help.
- ❖ You could also try postal mailing the EDD. (Note that the EDD removed the ability to email them as part of their recent “improvements” to the customer experience.)

After Filing: the “EDD Black Hole”

- ❖ If, after all attempts at communication with the EDD fail, contact the office of your state senator or state representative.
- ❖ Some state senators and reps even have a form on their website specifically to help their constituents in dealing with the EDD’s unresponsiveness.
- ❖ Once your rep contacts the EDD on your behalf, you will probably notice that your situation becomes resolved!

The Phone Interview

- ❖ It is not unusual that you may be scheduled for a phone interview. This is not an indication that something is wrong; there appears to be a randomness to this.
- ❖ If so notified, you will be given a 2-hour window on a specific date, usually within a few weeks of filing your claim. It is important that you are able to receive this call. If you list a land-line number when you enter your contact information, you will need to be there to receive the call. For this reason you may wish to use a mobile number instead.
- ❖ Remember that your unemployment is contingent on your being able to accept work, so if you try to reschedule your phone appointment it will raise a red flag, as this means that you may not be able to work as needed. It's best to be able to receive the call when scheduled.

The Phone Interview

- ❖ In some cases you will not start receiving benefits until after your phone interview.
- ❖ Unlike other EDD employees that you may talk to on the phone (if you are even lucky enough to get to a live person), the phone interviewers have some real power. Generally, they have the ability to make sure your benefits start flowing — or stop flowing.
- ❖ **Make sure you have a copy of your filing while on the call.** Many of the questions they will ask you are the same ones you've already answered in your filing, and they are probably looking at your filing while asking the questions.

The Phone Interview

- ❖ Usually **the primary purpose of the phone interviewer is to determine if you qualify for benefits.** They almost always try to determine if you have “reasonable assurance” of being hired for a future assignment.
- ❖ Some interviewers are knowledgeable and helpful, while others may not be so easy to deal with.
- ❖ Some interviewers are not familiar with the community college system. Make sure you emphasize that you are not a K-12 teacher (refer to yourself as “professor” or “instructor,” not teacher).

The Phone Interview

- ❖ Always remember the gotcha questions: **You are never in a “recess period,” you are never on a “school break” in service, and your work is not “seasonal.”** You are a **temporary** employee, and you were **laid off** when your assignment ended.
- ❖ They may ask you whether you expect to return to work (the answer is that you’re not sure). Be sure to **remind them that any future assignment offer is not a “reasonable assurance” of employment**, as there are a number of reasons your assignment could be cancelled (low enrollment, budgetary reasons, district needs, etc.).

Bi-Weekly Claim Forms

- ❖ To receive benefits, every two weeks you will be required to fill out a bi-weekly claim form. (On rare occasions you may be asked to submit weekly, rather than biweekly, claim forms.) The first one will be postal-mailed to you, but you can opt to fill out these forms online.
- ❖ There will be a section where you can list the places where you applied for work during the 2-week period, but unless the form indicates that you are required to do this, you can leave these fields blank.
- ❖ When you start working again, you can simply stop filling out these biweekly forms.

The Bank Card

- ❖ You will also be set up with a bank card with EDD that links to your personal bank account. This makes it easier and faster to receive your money, as you can set it up to automatically deposit your unemployment payments directly into your bank account.
- ❖ After you set this up your money will usually appear in your account within a couple days of filling out the online biweekly claim form, although things can always take significantly longer.

Denials & Appeals

- ❖ By far, the most common reason that EDD denies you UI benefits is because it says that you have “reasonable assurance” of being re-hired.
- ❖ If you are denied for this reason:
 - ❖ Immediately **contact your local union for assistance**. (If you are not a member of the faculty union, understand that they may decide not to commit resources to help you, as their resources are only made possible by the support of dues-paying members.)
 - ❖ **Respond to the notice, before the deadline**, and let the EDD know you disagree with their decision and that you will appeal. You will then be given a date for your appeal hearing before an administrative law judge. (Currently these hearings are being conducted by telephone.)

Denials & Appeals

- ❖ Once you have filed an appeal with the EDD, the California Unemployment Insurance Appeals Board (CUIAB) will send an "Appeal Acknowledgement and Welcome Letter," which notifies parties that the CUIAB has received the appeal and provides information necessary (a case number) to create and register for a "myAppeal" account.
- ❖ Note that a myAppeal account is in addition to, and separate from, your online account with the EDD that you use to file for unemployment.
- ❖ See **How to Register and Create a CUIAB myAppeal Account:**
<https://cuiab.ca.gov/wp-content/uploads/sites/13/documents/myAppeal/how-to-create-a-myAppeal-account2.pdf>

Denials & Appeals

- ❖ When you create your CUIAB myAppeal account, you will also be able to designate an official representative who can assist you in the appeals process.
- ❖ Once you have a myAppeal account, you — and your representative — will be able to easily see all relevant documents, including case status, important dates and deadlines, documents submitted by the district (or the district's representative), documents submitted by you, notes from phone interviews, audio recordings of previous appeals hearings (if any), all correspondence relating to your case, and the exact reasons for the denial. In other words, you and your rep will now see everything that the judge will see when conducting the hearing. And your rep will be able to join you in your telephone hearing.
- ❖ You and your representative will now be able to upload documents directly, which eliminates the need for you to fax them or postal mail them to the court!
- ❖ After your account is created you can log in at:
<https://cuiab.ca.gov/myappeal/>

Denials & Appeals

- ❖ **Upload these documents** to the CUIAB site in advance of the hearing:
 - ❖ **Your letter** stating why you disagree with their finding. Here is a sample letter (in Word format) that you can edit to fit your situation:
<https://contingentworld.com/pdfs/appeals/EDDAppealLetterTemplate.doc>
 - ❖ An **excerpt from the current contract** between your union and your district showing the definition of adjunct faculty as part-time, temporary employees and that adjunct teaching assignments are made on a tentative basis and subject to being cancelled for a variety of reasons.
 - ❖ Text of **California Unemployment Insurance Code 1253.3** (PDF):
<https://contingentworld.com/pdfs/appeals/LawSection.pdf>
 - ❖ Text of the **Cervisi Decision** (PDF):
<https://contingentworld.com/pdfs/appeals/CervisiDecision.pdf>
 - ❖ If you have an assignment offer letter, and if it states that the job offer is not guaranteed and subject to being cancelled for a variety of reasons, be sure to include it.

Denials & Appeals

- ❖ At the time of the hearing, you (and your representative, if you have one) will be asked to call in to the court 15 minutes before the scheduled time. The hearing will essentially be a phone conference call.
- ❖ It's helpful to be logged in to the case at CUIAB website, as the judge will start by listing each document related to the case that has been uploaded to the site, and will ask you to confirm that these are the complete set of documents.
- ❖ The hearing itself will probably last 15-30 minutes or so. You will be notified later of the decision, usually within a few weeks.

Denials & Appeals

- ❖ When asked for your statement, keep it focused and brief. These are your main talking points:
 - ❖ You are a part-time, temporary adjunct community college instructor, not a K-12 teacher. As such, you were laid off when your part-time teaching assignment ended; you were not on a break, and you were not in a recess period.
 - ❖ Even though you may have been given a future assignment, the job offer was contingent on funding, enrollment, district needs, and other factors. Therefore, your assignment could have been withdrawn at any time, and you had no reasonable assurance of employment.
 - ❖ Your situation is covered by the Cervisi Decision.
- ❖ You will probably win and have their denial reversed, but if for some reason you do not win, immediately contact your local union for further assistance. You may decide to file a second appeal.

UI Resources

- ❖ **Contingent World** (comprehensive unemployment guides for contingent faculty in the CA community college system)
<https://contingentworld.com/unemployment/>
- ❖ **CA Employment Development Department (EDD) help line:**
(800) 300-5616 (It may take a long time to reach someone there...)
- ❖ **Guide to Applying for Unemployment Benefits** (the official guide from the CA Employment Development Department)
<https://unemployment.edd.ca.gov/guide/how-to-apply>
- ❖ **A Guide to Benefits and Employment Services** (a handbook from the CA Employment Development Department)
https://edd.ca.gov/siteassets/files/pdf_pub_ctr/de1275a.pdf

UI Filing Worksheets

- ❖ **Info Worksheet**
(lists general info you will need for filing)
<https://contingentworld.com/unemployment/InfoWorksheet.html>
- ❖ **Interactive Earnings Worksheet**
(for a **NEW** claim filed October 2023–December 2023)
<https://contingentworld.com/unemployment/earningsworksheet.php>
- ❖ **Earnings Worksheet # 2**
(for calculating hours worked and hourly pay)
<https://contingentworld.com/unemployment/EarningsWorksheet2.html>

For More Info

- ❖ This presentation is a distillation of the unemployment section of **Contingent World**:
<https://contingentworld.com/unemployment/>
- ❖ Contingent World includes screen shots and detailed guidance for the entire UI filing process.
- ❖ Feel free to ask me any questions:
John Govsky
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831-252-3263

Questions?



For Local Leaders

- ❖ If your local represents contingent faculty:
- ❖ Consider holding a UI filing workshop at the end of every term.
 - ❖ As well as being a valuable service to your members, use a UI workshop to get new members (“You want to register for the workshop but you’re not a member? OK, let me sign you up ...”)
- ❖ Create worksheets, specific to your district, to assist members in filing, similar to:
 - ❖ Info Worksheet
https://contingentworld.com/unemployment/InfoWorksheet_cabrillo.html
 - ❖ Earnings Worksheet
https://contingentworld.com/unemployment/EarningsWorksheet2_cabrillo.html

For Local Leaders

- ❖ To assist your members with denials and appeals:
 - ❖ Examine the assignment offers that are given to contingent faculty in your district.
 - ❖ Make sure that the assignment offers state that an assignment is contingent on many factors, and may be cancelled by the district for a variety of reasons. Although such language is most certainly already in your contract, having this language stated clearly and explicitly in assignment offers makes winning appeals that much easier.
 - ❖ If such language is not already there, work with your HR department to modify the language in the assignment offers.