

FREQUENTLY ASKED QUESTIONS ABOUT REASONABLE ASSURANCE NOTIFICATION

GENERAL

1. **Why do we do this?**

The Unemployment Insurance Code provides that benefits, based on school wages, are not payable to a school employee during periods of recess if the employee has a reasonable assurance of returning to the same or a similar job at the conclusion of the recess. The code also requires that school employers notify a specific group of employees of their right to file unemployment insurance claims. The reasonable assurance notification process meets both of these needs.

WHO RECEIVES WHICH NOTICE

2. **We have monthly employees who also perform as hourly employees (e.g., noon duty assistants). Should they get a notice for the hourly job?**

No. The employee should only appear on the report for ten- and eleven-month classified employees. In such cases, employees should only receive one notice. Similarly, the same principle applies to hourly employees who perform two functions. Only one notice is sufficient.

3. **We have an unassigned hourly substitute employee working at our site during the time Reasonable Assurance notices are being distributed. Should I give a letter to this person?**

No. A notice will be sent to all 5998A (unassigned labor pool) employees at the U.S. Mail address on file with the district.

4. **We have some ten- and eleven-month classified employees who (will/may) be receiving a layoff notification due to site budget reductions or district layoffs. Should I still give them their addressed Reasonable Assurance notice?**

Possibly! If the employee is being laid off by the district without displacement rights, *do not give them their addressed reasonable assurance letter*. Return the letter with your report and indicate the person received a layoff letter. You do not need to give them a 'no reasonable assurance' letter, as the layoff letter states it already. However, if their layoff letter gives them the option to bump, then they are to receive their reasonable assurance letter.

5. **We will be eliminating some hourly positions because of funding or program changes. Why should those involved receive reasonable assurance when we know they will not be here?**

Reasonable Assurance notices are from **the district** – the district being the employer. The site is the location within the district at which the employee has been working. Often, there is work available at other sites for hourly employees who are released from a particular site because of funding or program changes. Feel free to assist affected hourly employees in securing hourly employment at another site. If an employee secures employment at another site, please give

them a Reasonable Assurance notice with the new site name. Make a notation on your report and return a copy of the named notice with your report. If your site provides an employee with a notice that releases him/her from the site, due to funding or program changes, and they are not acquired by another site, **do not give them a Reasonable Assurance notice**. Address a **No Reasonable Assurance** notice to the employee and return a copy of the named notice with your report. *The state will issue false statement penalties to districts that falsely provide reasonable assurance notices to employees who were released. Monetary penalties will be charged to the site's budget.*

6. **We have a 10- and 11-month or hourly employee whose job performance, attendance, attitude, or other legitimate criteria is unsatisfactory. We do not want this employee back after the recess. Which notice should I provide?**

For classified 10- and 11-month employees, please follow district employee termination procedures. For hourly employees, a site **must** provide a termination letter if an employee's record is such that he or she is not suitable as a district employee. The letter should specify that the employee is being released as an employee of the district and why this action is necessary. Send a copy of this letter, with supporting documentation and the separation notice, to your contact in Human Resources, Room 1241, at the Eugene Brucker Education Center. If these steps are not taken, the employee will remain in an active status and is free to fill an opening at another site. Thus, the problem moves to a different site with a continuing negative effect to the district. If a termination letter has been provided, or will be provided prior to the recess, address and give the employee a **No Reasonable Assurance** notice. Make a notation on your report and return a copy of the named notice with your report. If later it is decided not to terminate the employee from the district, give the employee a Reasonable Assurance notice and call the employee back to work at your site after the recess. We should avoid passing problem employees between locations, as well as providing reasonable assurance when there is none.

7. **On the reasonable assurance list there is a (Professional Expert, Artist in Residence, Instructional Expert, Dance/Music Instructor, and or Community Parent Representative) we employed this year. We are not sure how much we will need his/her services next year. Which letter do we provide?**

Although most of these job classifications have been removed from the reports, some individuals may still appear. People in these titles were at one time considered "independent contractors." However, they meet the definition of employees and should be thought of as such. If one of these employees is on your reasonable assurance list, the decision of which notice to provide will depend on the facts involved. If the person was on-call/as needed this year, and will be on-call/as needed next year, or, if you have made arrangements for them to continue an assignment on the first day of the new term, give them a Reasonable Assurance notice. If the person was used only for a special project that is completed and it is unlikely the person will be used again, or it is unknown if he/she will be used next term, give them the **No Reasonable Assurance** notice.

8. **The jobs of some employees at this site are 12-month employees or not affected by typical recess periods. Does reasonable assurance apply?**

It is unlikely that reasonable assurance will apply and reasonable assurance letters are not necessary. Some work groups, like maintenance, use recess periods to accomplish work that is better done when classes are not in session. Other staff groups use employees during the summer recess for special projects in preparation for the start of school. If you have questions about whether or not reasonable assurance applies to your employees, call the Risk Management Specialist at (858) 627-7352.

9. **Someone on the list is out ill or on a leave-of-absence during the notification period. Do I send a Reasonable Assurance notice to their home?**

Yes. Put a Reasonable Assurance notice in the U.S. Mail or make other arrangements to ensure the employee receives a notice. If you are mailing the notice directly, be sure to cover the label of the site address with a label of the **employee's home mailing address**. Make a note of this action next to the employee's name on the list.

10. **An employee has told me that he/she does not intend to return next year. Which letter do I provide?**

Provide him/her with a Reasonable Assurance notice. Even if the employee completed a resignation/retirement notice, the job will still be there after the recess, and the plans of the employee could change. If the employee does not return to work following the recess, and applies for benefits, it will be up to him/her to establish there was good cause for leaving available work.

THE REASONABLE ASSURANCE LIST

11. **Should I have employees initial or sign the reasonable assurance list to show the letter was received?**

Asking employees to initial or sign the list is an ideal way to substantiate that the notice was received. Many sites have done this in past years and it has been quite effective when proving reasonable assurance was given. It is not part of the requirements because the intent is to keep the process as uncomplicated as possible. However, if having the employees initial or sign the reasonable assurance list is not seen as an extra burden, such lists are appreciated (see sample of a completed list – Attachment 5).

12. **I will not be able to complete this process and return the reasonable assurance list by the deadline. What do I do?**

Notify the Risk Management Department via email at lunajr@sandi.net by the May 30, 2019 deadline. Complete and return the list as soon as you are able. However, *do not delay distribution of the notices.*

13. **Should I make a copy of both reasonable assurance lists for my records?**

Yes. It will be helpful if and when you are called with questions.

14. **Should I return both reasonable assurance lists?**

Yes, after notices have been distributed and initials or checkmarks have been recorded. *(Please note that not all sites will have received both an hourly and 10 – 11 month list)*

15. **How are reasonable assurance lists used after they are processed and returned?**

During the summer recess, many employees file claims for unemployment insurance benefits. If the district is the last employer when a claim is filed, a copy of the claim is sent to the district. The district responds with any information that might affect the claimant's eligibility. The returned reasonable assurance lists are checked whenever a claim is processed during the recess. If the claimant's name appears on a list and there is a check mark or other indication that the person received a Reasonable Assurance notice, that information will be reported to the Employment Development Department (EDD). It will become the basis for their determination on the individual's eligibility.

16. **What if the employee claims not to have received a Reasonable Assurance notice, but the district responds that the person has reasonable assurance?**

This situation usually results in a call from the EDD to verify the claimant's status. The returned reasonable assurance lists will be checked again along with the claimant's returned letter. The person who signed the reasonable assurance list may be contacted to verify the employee's status. As a general rule, the EDD will accept the district's records over the claimant's word. If either the district or the claimant disagrees with the EDD's determination, each has appeal rights. The reasonable assurance lists are often used as evidence in hearings; therefore, it is very important that they be complete and accurate.

17. **We gave an employee a Reasonable Assurance notice, but his/her performance deteriorated before the end of the semester, and we do not plan to have him/her back. What do I do?**

(Refer to question 6, regarding termination from the district.) If an employee is being terminated, he/she has no position to return to at the end of the recess. It is appropriate to provide the **No** Reasonable Assurance notice and send a copy to the Risk Management Specialist in the Risk Management Department. Since this situation usually happens after you process your reasonable assurance list, please call the Risk Management Specialist at (858) 627-7352, and warn of this change. *The state will issue false statement penalties to districts that falsely provide reasonable assurance notices to employees who were released. Monetary penalties will be charged to the site's budget.*

18. **We added a new employee after the reasonable assurance list was completed and returned. Should this employee receive a Reasonable Assurance notice?**

Yes; please make a copy of the enclosed, unlabeled Reasonable Assurance notice (Attachment 1) and address it to the employee with their name and the site. Once addressed, send a photocopy to the Risk Management Specialist. Although the employee is new, we have the same notification obligation as with an employee who has been with us the full year.

19. **We did not receive all of the attachments listed in the circular. What should we do?**

Not all sites will receive all of the attachments. If you do not have one group of employees (i.e., classified hourly or clerical substitute employees, or 10- and 11-month classified employees) assigned to your cost center, you will not receive lists and attachments that pertain to that group.

However, if you feel you did not receive all of the necessary attachments please call the Risk Management Specialist at (858) 627-7352.

OTHER

20. **Am I responsible for collecting the Reasonable Assurance notices from the employees and mailing them back?**

No. This is the employee's responsibility. However, it may help in your planning for next year if you can arrange to have the response collected at the site and sent back at one time. This is strictly your choice; you will need to tell the employee that this is what you want them to do.

21. **I do not understand the answer to one of the questions, have another question, need more notices, etc. Who do I call?**

Call the Risk Management Specialist, at (858) 627-7352.