



April 16, 2014

TO: District Superintendents of Kern County School Districts  
FROM: Nick G. Kouklis, Chief Executive Officer  
Self Insured Schools of California  
SUBJECT: Notification of Reasonable Assurance of Employment

The California Unemployment Insurance Code at Section 1253.3 disqualifies employees from receiving unemployment insurance (“UI”) benefits during a recess period if those employees receive “reasonable assurance” of returning to work after the recess period is concluded. Failure to provide the proper written communication, where appropriate, could result in increased UI 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 pay that is greater than 20%, or (c) notice of non-re-election under Education Code Section 44929.21. **If you are in doubt, please contact your legal counsel and/or labor negotiator.**

#### **CERTIFICATED EMPLOYEES**

Regular certificated personnel working less than 12 months, including tenured and probationary teachers, administrators and all other certificated personnel, who have a continuing contract with the district and who have not received lay-off notices as required by Education Code Sections 44951 and 44955 or notices of non-re-election under Education Code Section 44929.21, have automatic reasonable assurance. No special letter of assurance is required.

There are several Education Code sections which describe the status of teachers as temporary employees. A teacher on a temporary contract that expires at the end of the school year is considered to be released from employment and eligible for UI benefits unless, and until, the district can offer a new contract or position providing substantially similar economic terms and conditions. Other temporary employees, normally referred to as “categorical temps,” are temporary employees and can be released at the expiration of the categorical project. If they are released prior to the expiration of the categorical project, they must be treated as probationary employees and released by termination for cause, non-re-election or lay-off. Districts should carefully review their staffing needs and employees’ work histories. As described above, there are different types of temporary contracts, and the rules and implications of renewing or offering temporary contracts and employment can get complicated. This may be an area where you seek advice from your legal counsel and/or labor negotiator before sending a reasonable assurance letter to a temporary employee

A sample notification of reasonable assurance for certificated substitute employees is enclosed. Please refer to Attachment A.

#### **CLASSIFIED EMPLOYEES**

Reasonable assurance should be sent to 12 month employees that have at least a one week unpaid scheduled break during a recess period. Employees working less than 12 months must receive notification of reasonable assurance to return to work for 2014-2015 as required by the Unemployment Insurance Code at 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 the Unemployment Insurance 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.
- 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 employee is otherwise eligible and he/she filed a claim for each week benefits are claimed, and if a claim for retroactive benefits is made no later than 30 days following the commencement of the next academic year or term.
- The status of the employee remains the same throughout the school year, including winter and spring breaks.

Mailing address: P.O. Box 1808, Bakersfield, CA 93303-1808 <http://www.kern.org/sisc/>  
Street address: 2000 K Street, Bakersfield, CA 93301 (661) 636-4710

### **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.

### **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.

### **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 2014-2015. **Send notifications only to those substitutes the district intends to continue to use for the next school term.** Notification should be sent no later than 30 days before the end of the academic year or term. If your district would like to know substitute availability for the next school year, attachment D is included for your use. **NOTE:** Districts should also be cognizant of the rights of laid off certificated employees to receive first consideration for work as substitute teachers. The number of individuals on your certificated re-employment list may impact the number of regular substitutes you provide with reasonable assurance letters.

### **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 [cgonzales@kern.org](mailto:cgonzales@kern.org).



**Please provide a copy of the following information to Carmen Gonzales.  
Items may be e-mailed to [cgonzales@kern.org](mailto:cgonzales@kern.org), faxed to (661)636-4063,  
or mailed to SISC Finance PO Box 1808, Bakersfield, CA 93303-1808.**

1. Reasonable Assurance notification sent to Certificated and Classified staff.
2. List of regular Classified, Certificated substitutes and Classified substitutes receiving Reasonable Assurance.
3. List of Summer Session employees and substitutes, and summer session dates.
4. List of employees receiving lay off notices or non re-election notices.
5. List of employees that had a reduction in hours. Include prior position and new position details on the list.
6. Continue to provide an updated list of rescinded layoffs until school resumes for the 2014-2015 year.
7. Send copies of Reasonable Assurance notifications that are sent after layoffs are rescinded.
8. The EDD claim forms DE1101 C/Z may be faxed to our office for processing.
9. Provide information regarding job offers that substitutes have declined during the school year.

C: District UI Contact

NK:cg  
Enclosures

## ATTACHMENT A

### Sample Notification of Reasonable Assurance for CERTIFICATED Substitutes

DATE:

TO:

FROM:

SUBJECT: Notification of Reasonable Assurance for 2014-2015

You are hereby notified that you have reasonable assurance of returning to work for us in the 2014-2015 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, unless you are notified in writing by <Name of School District>.

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 2014 – 2015 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.

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.

The official mailing address provided below should be given to the EDD 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. Unless you notify us to the contrary, we look forward to seeing you after the summer recess.

## ATTACHMENT B

<p style="text-align: center;"><b>Sample Notification of Reasonable Assurance for CLASSIFIED Substitutes &amp; Less Than 12 Month Employees</b></p>
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DATE:

TO:

FROM:

SUBJECT: Notification of Reasonable Assurance for 2014-2015

The <School District> hereby notifies our **regular classified employees**, who work less than a 12 month schedule each year, that you have reasonable assurance of returning to work in the 2014-2015 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. Your services are not required during the recess periods. However, if your services are needed for the 2014-2015 recess periods, you will be notified by mail.

**Classified substitutes** have reasonable assurance of being called for substitute work in the 2014-2015 school year, after the summer recess period. You also have reasonable assurance of being called for substitute work in the same capacity as this year. Your status will remain the same throughout the school year, including winter and spring recess periods. Your services are not required during the recess periods, unless you are notified in writing by <Name of School District>.

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 are otherwise eligible and you filed a claim for each week benefits are claimed, and if the claim for benefits is made within 30 days after the start of the next academic year/term.

The official mailing address provided below should be given to the EDD 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. Unless you notify us to the contrary, 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 for 2014-2015

**Newly-Hired Certificated Substitute Employee**

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. Your services will not be needed during the recess periods unless you are notified in writing.

**Newly-Hired Classified Employee**

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. Your services will not be needed during the recess periods unless you are notified in writing.

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 are otherwise eligible and you filed a claim for each week benefits are claimed, and if the claim for benefits is made within 30 days after the start of the next academic year/term.

The official mailing address provided below should be given to the EDD 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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**ATTACHMENT D**

**Classified and Certificated Substitutes Employees  
Substitute Availability Questionnaire**

- I am interested in being called to substitute for the 2014–2015 school year without restrictions.
- I am interested in being called to substitute for the 2014–2015 school year with the following restrictions: (indicate **actual** restrictions and not mere preferences)
- I am **NOT** interested in being called to substitute for the 2014–2015 school year.

I am **not** available for:

Grade level(s):

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Subject(s):

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Other Restrictions: (Days, time, or work site)

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

Return completed questionnaire to:

Name of School District (not school site)  
District Address