Greetings Fellow Lecturers,

As we rapidly approach summer you should be aware of your right to apply for unemployment benefits (UIB).

All temporary faculty (i.e., contingent part-time lecturers - PTLs), including those on three-year contracts, are eligible to receive unemployment insurance between semesters or quarters once your appointment letter contract is complete. To apply go to the [EDD website](http://www.edd.ca.gov) or call 800-300-5616.

It is the CFA's contention that once you have "finished your duties" (see Lecturers’ Handbook, p. 16) you are officially unemployed (in each term) as your contract has been completed. The CSU has taken the position that PTLs are employed for all academic workdays in a term (days in yellow on the calendar.) However, based on the contract language in the Collective Bargaining Agreement PTLs have successfully defended our interpretation of workdays as only those days in the classroom.

**Article 12.5 reads:**

An appointment for less than full-time temporary employee may be on a conditional basis. The conditions established at the time of appointment may relate to enrollment and budget considerations. If a class is canceled, the temporary employee shall be paid for the class hours taught. Classes may be canceled any time prior to the third class meeting.

[Emphasis added]

In numerous cases before EDD Administrative Law Judges (ALJ) and before the California Unemployment Insurance Appeals Board our position has been upheld that since in the event of class cancellation the CSU will only pay a PTL for class hours taught then the implication is that we are only paid for class hours and nothing more. There is no compensation for prep, office meetings, committee work, research, advising, or anything else. The ALJs have found that the “yellow” days do not apply to PTLs as they do to non-contingent faculty. You will find documentation to review and to use in support of your case at <http://faculty.csusb.edu/urmann/edd.html> with new findings being added.

**Important Note:** You need to know that the CSU reports our income for all the “yellow” academic workdays (total term salary / number of academic days = daily pay rate reported to EDD.) This will likely cause you to receive a Notice of Overpayment from the EDD for weeks where your reported earnings differ from those reported by the CSU. Currently, Spring'03 & Fall'03 are being contested with letters from EDD going out to PTLs -- myself included -- here at CSU Stanislaus and many other campuses. We recommend that you respond and contest the overpayment as incorrect reporting by CSU. This will likely result in a hearing with an ALJ but we will continue to help you with your case. If you need help with the response letter and documentation, please let me know. Contact me also if you just want to talk about it and weigh your choices.

It is our goal that all PTLs systemwide receive their full UIB that they are entitled to and to that end there are many of us within CFA willing to help you defend your claims. Statewide training
is being established as well to provide EDD "Experts" at each campus to help with the filing of UIB claims and to attend ALJ hearings, if necessary, in support of our PTLs. Do not let the CSU bully you into conforming to their employment dates when the CSU will not pay you for work outside of the classroom (Article 12.5).

Whether you choose to report your earnings using the CSU method or the one that CFA is advocating you may start your new claim at this time or you may continue a claim from this past winter. You may also claim benefits between Fall & Winter, Winter & Spring, or Fall & Spring (if not teaching winter) terms once classes are completed or grades determined just as you do between Spring & Fall.

I have included additional pages for your information to help you better understand the EDD process as well as the reporting methods used by CSU and those recommended by the CFA. There are answers to many of the questions asked when filing for UIB. And, there is also a page of links to web sites that you will find useful. Please, take the time to visit the CFA Lecturer’s website and review the information posted to help you know your rights.

Please do not hesitate to contact me for assistance.

Best wishes,

--Dan Bratten

Computer Science
CFA Alt. Lecturer Rep.

Cc: Lecturers’ Listserv

Attached: EDD UIB Filing Form Answers
          Examples and Explanations
          Useful Web Links
EDD UIB Filing Form Answers

Below are some tips on completing the online form when you file (Note: the PDF form contains different numbering and is shown below in parentheses and a smaller font):

Question:

#22 (#31) & 22a (#31a) -- if you are a member of the CFA you should list it here.

#22b (#31a) -- if so, you must enter the CFA Union Number which is 1983.

#22c -- Tel. # (310) 641-4430

#22d-g (#31b-0) -- No

#27 (#20) -- day you "finished your duties." This has been interpreted as both the “last class meeting day” and as “day grades submitted.” To date, ALJs have accepted the earlier day but there is ongoing discussion within CFA to determine if this is legally defensible on higher appeal. A problem with using the latter day is in determining one’s payrate to report to EDD as the day grades are submitted varies by individual.

#27a (#20a) -- is the wages earned (days worked) for Sunday through your last day. I use total appointment letter salary divided by number of days in the classroom for the term to arrive at a daily pay rate. I then report the number of days paid for the last week. You may find it to your advantage to further breakdown your pay into class hours rather than class days when reporting your earnings for your first or final week of work.

#28 (#20g) -- reason no longer working? -- Laid off/Lack of work.

#28a (not numbered) -- for reason no longer working I put "Part-time lecturer employment contract completed. No reasonable assurance of continued employment in the future per EDD 1253.3."

#29 (#21) -- No – a definite NO - as I hope for employment but don't expect it.

#30 (#32) -- No - even if your chair said you will teach next term you do not have an unconditional contract until the third class meeting of the new term. Up until then your class can be cancelled.

#31 (#33) -- No - part-time lecturers are not school employees as defined by EDD as we lack reasonable assurance (see below.)

#32 (#30) -- No to all - any pay you receive is earned during your contract period regardless of when you receive the payment. Health benefits you receive are not counted against your UI earnings.
#33 (#17) -- I list each term (not year) as separate employment. I list:

<table>
<thead>
<tr>
<th>Institution</th>
<th>Start Date</th>
<th>End Date</th>
<th>Total Salary</th>
<th>Payment Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>CSU Stanislaus 1</td>
<td>2/15/2005</td>
<td>5/20/2005</td>
<td>total salary</td>
<td>Monthly</td>
</tr>
<tr>
<td>CSU Stanislaus 3</td>
<td>2/17/2004</td>
<td>5/21/2004</td>
<td>total salary</td>
<td>Monthly</td>
</tr>
<tr>
<td>CSU Stanislaus 4</td>
<td>1/6/2004</td>
<td>1/29/2004</td>
<td>total salary</td>
<td>Monthly</td>
</tr>
</tbody>
</table>

for an 18 month period. This clearly denotes each employment period as we as PTLs are hired for only a term at a time regardless of the 1yr or 3yr appointment letter we receive. Each section taught per term is subject to budget and enrollment. For this reason PTLs are eligible for UIB and full-time lecturers are not.

If you are contacted or asked to contact EDD for an interview always be forthcoming with your future contract employment offers. Keep in mind, and stress to the interviewer, that although you hope to return to work in the next term you are not assured of having employment. Our contracts as part-time lecturers are subject to budget and enrollment, classes may be cancelled up to the third class meeting, and therefore you do not have "Reasonable Assurance" of continued employment.

**EDD STATUTE ON "REASONABLE ASSURANCE" - 1253.3.(g)**

For purposes of this section, "reasonable assurance" includes but is not limited to, an offer of employment or assignment made by the educational institution, provided that the offer or assignment is not contingent on enrollment, funding, or program changes. An individual who has been notified that he or she will be replaced and does not have an offer of employment or assignment to perform services for an educational institution is not considered to have reasonable assurance.

Take the time to post your resume as a Job Seeker on the CallJobs web site and check back from time to time to show that you are looking for work. EDD likes that you do this. :-)


Examples and Explanations

First, the information I am using –

The official CSU Stanislaus Calendar for the College Year 2004-05 where the Spring’05 semester begins on February 10, 2005 and ends on June 2, 2005. This term is also reflected in your appointment letter. This term encompasses 73 (yellow) academic workdays -- which varies slightly from semester to semester.

Your appointment letter salary for this term for which I will use $18,000.00 to reflect that you are scheduled to teach 12 WTUs (or four sections.) The CSU will report (through an agent) to EDD that you are receiving $246.58 per day for each “yellow” day on the calendar (18,000 / 73 = $246.58).

An EDD workweek runs from Sunday through Saturday. You are required to report to EDD all earnings for work performed – whether paid or not – in the week when earned. This includes ANY work you perform whether with the CSU, a community college, consulting, or at Taco Bell. Do not confuse earnings with your paychecks. When you receive your check is irrelevant when reporting your earnings to EDD. It also does not matter if you receive PERS benefits over the summer as these are considered as earned during the term when you were teaching not when received.

In most weeks, the CSU will report your earnings for five workdays but there are also weeks where there are only one or two “yellow” days. This typically occurs at the start and the end of the term. For instance, in our spring term the EDD week of 5/29/2005 – 6/02/2005 contains only one “yellow” day. This is important for several reasons.

One, is that you are entitled to receive UIB even if you have partial earnings. Your earnings in a week can equal up to 133% of your UI benefit amount before you receive nothing. EDD multiplies your weekly earnings by 75% and deducts the result from your weekly benefit.

Let’s say that your UI benefit is $450/week based on prior quarter earnings (see Links). EDD will determine your highest quarter (see Links) and make this calculation for you. In the case of EDD week 5/29/2005 – 6/02/2005 (above) you are entitled to a UIB payment of $265.07:

<table>
<thead>
<tr>
<th>Calculation</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Your UI weekly benefit amount</td>
<td>$450.00</td>
</tr>
<tr>
<td>minus weekly earnings</td>
<td>$246.58</td>
</tr>
<tr>
<td>times EDD multiplier</td>
<td>x .75</td>
</tr>
<tr>
<td>earnings deducted from UIB</td>
<td>-184.94</td>
</tr>
<tr>
<td>remaining UIB payment</td>
<td>$265.07</td>
</tr>
</tbody>
</table>

This is assuming you have no additional earnings from any other source. If you do, the earned amount must be included in your weekly earnings when reported.

Now, here is where the CFA’s position differs from that of the CSU. As explained previously, PTLs have successfully argued to the ALJs of EDD that our first day of employment in our first
day in the classroom and that our last working day is our last class meeting day whether that is
final exam day or the prior class meeting in the event you do not hold class for a final exam.

This seemingly slight difference can mean literally thousand of dollars in additional UIB to you. It is in the CSU’s best self-interest to fight the ruling of the ALJs although the CSU has repeatedly lost.

Again returning to the CSU Stanislaus Spring’05 term, let’s look at the beginning of the term first. Assume that you have been receiving UIBs over the winter break. The first “yellow” day for this new term is Feb. 10th. The first day of classes is the 14th (a Monday.) The CSU will report to EDD that you had earnings in EDD week 2/06/2005 – 2/12/2005 for two “yellow” days (2/10-11) or $493.16 using the above contract salary. This will result in your receiving only $80.13 in UI after earnings are deducted. CFA maintains that you were not working this week as classes had not started. You are, therefore, entitled to your full UIB amount of $450.00.

You may also be entitled to partial payment during the first week of classes is you are only teaching one class or if you only meet for a couple of hours during the first class week. Keep in mind that some terms begin with the first day of class late in the week and depending on your schedule you may only have limited earnings to report to EDD. In this case it may be to your advantage to determine your hourly payrate and report only the hours spent in the classroom to EDD rather than using a daily rate.

At the end of the term, the same reporting differences exist. CSU maintains that you are earning through June 2nd while CFA says that you have completed your work when you have *finished your duties.* Although, the ALJs have ruled favorably in cases that claim this is the “last class meeting day” most PTLs use the “day grades are submitted” as their last day worked to report to EDD. If you wish to combine both you can strive to report your grades on the last class meeting day. In any event, you will find that another full week or more of UIB are due you at the end of the term as allowed by the ALJs.

If you got this far you may also be interested to know that you can increase your weekly UIB by choosing to receive your pay in ten payments rather than in twelve monthly payments. Here at CSU Stanislaus, if you teach in the winter term as well as in fall and spring you will receive a disproportionate amount of your pay in the first quarter of the year. This will be reported to EDD and result in your UIB being higher per week as the UIB amount is determined by your highest quarter earnings *WHEN PAID* – not earned.

Depending on your salary this may not make a difference. Currently (see UIB Table), you must have $11,674.01 or more in income in your highest prior quarter to receive the maximum UIB of $450.00 a week. If your annual salary divided by four exceeds $11,674.01 than this will not apply to you. As there is “no free lunch” this comes at a price. If you choose the ten payments you will not have paychecks in the summer (short of teaching summer school) and consequently you will not receive benefits for medical, dental, vision, and death, etc.. I only bring this option to your attention to let you choose what will work best for you. If you have coverage by a spouse year-round then you may find it worth the increased UIB to forego some personal coverage. I recommend that you check with Faculty Affairs for complete information.
Useful Web Links

EDD

EDD Home Page  http://www.edd.ca.gov/eddhome.htm
Online Filing Application  http://www.edd.ca.gov/uirep/uiappind.htm
Weekly UIB Table  http://www.edd.ca.gov/uirep/de1101bt5.pdf
Highest Quarter Calculation  https://eapply4ui.edd.ca.gov/htm/cpgInstructions.htm

Other Sites

ALJ findings  http://faculty.csusb.edu/urmann/edd.html
California Faculty Association  http://www.calfac.org/lecturers.html
CalJobs Website  http://www.caljobs.ca.gov