

ADMINISTRATIVE CIRCULAR NO. 95

Office of the Chief Administrative Officer

SAN DIEGO UNIFIED SCHOOL DISTRICT

Date: April 28, 2008

To: All School Principals, Child Development Center Administrators, Division and Department Heads

Subject: REASONABLE ASSURANCE NOTIFICATION

Department and/or Persons Concerned: All Principals, Division and Department Heads, Child Development Center Administrators, Secretaries, Clerks, Ten- and Eleven-Month Employees, and Hourly Employees

Due Date: May 16, 2008 and May 30, 2008

Reference: Unemployment Insurance Code 1253.3 and 1142(b)

Action Requested: Distribute Reasonable Assurance notices by May 16, 2008, and return reasonable assurance list(s) by May 30, 2008.

Brief Explanation:

Section 1142(b) of the California Unemployment Insurance Code, provides for a **monetary “false statement” penalty** if the district makes a false statement or fails to report a material fact concerning reasonable assurance of employees – **PLEASE READ THE FOLLOWING INFORMATION THOROUGHLY AND CAREFULLY!**

Section 1253.3 of the California Unemployment Insurance Code requires the district to notify school employees who have reasonable assurance of reemployment in the upcoming school year if the district is to be exempt from paying unemployment insurance benefits during vacation, holidays, and any other periods of recess. **All sites and work locations must complete this notification by the May 16 and May 30, 2008 due date.** *All attachments will be mailed to affected sites only. If you did not receive all attachments, please refer to Attachment 3, question 19.*

*All ten- and eleven-month classified employees, as well as classified hourly employees and clerical substitutes, will receive a reasonable assurance notification via department/site distribution. Computer printouts listing the ten- and eleven-month classified employees, and classified hourly employees and/or clerical substitutes assigned to your cost center are provided. Please process these lists as instructed. Distribute the pre-labeled Reasonable Assurance notice, the **No** Reasonable Assurance notice (Attachment 2) or the appropriate unlabeled notices (Attachment 1), as instructed below.*

Please follow these instructions for providing reasonable assurance notification:

- 1. Determine who will be responsible for coordinating the reasonable assurance notification at your site.**
- 2. If an employee’s name is on either printout and the employee is at the site:**
 - a) Give the employee the appropriately-labeled Reasonable Assurance notice and have the employee initial next to their name, or indicate receipt with a check mark. (Refer to sample list—Attachment 4) It is desirable to hand deliver the notice. If this is not possible, use U.S. Mail and make a note on the printout next to the employee’s name.

- b) If the employee was given a **No Reasonable Assurance** notice, write in the reason next to the employee's name on the printout. (Refer to Attachment 3, question 6.)

3. If an employee's name is NOT on either printout, but the employee is at the site:

- a) Add the employee's name to the appropriate printout for "ten- and eleven-month classified employees," or "classified hourly employees."
- b) If the employee will be given the Reasonable Assurance notice, write the employee's name, location, and cost center on an unlabeled copy of the Reasonable Assurance notice (Attachment 1), and give to the employee. Put a check mark by the employee's name and **return a copy of the named notice** along with your completed report.
- c) If the employee is given the **No Reasonable Assurance** notice (Attachment 2), write in the reason next to the employee's name on the report and **return a copy of the named notice** along with your completed report. (Refer to Attachment 3, question 6.)

4. If an employee's name is on either printout, but the employee is no longer at your site:

- a) Explain on the printout what happened to the employee: Resigned (When? Why?), Transferred (When? Where?), etc. (Refer to sample list—Attachment 4)
- b) Return the Reasonable Assurance notice addressed to the employee to Risk Management.

5. If reasonable assurance is questionable for an employee at your site, adhere to the following:

- a) Occasionally, funding constraints or program changes may cause the release of a satisfactorily performing employee. If through your assistance another site selects the employee, give him/her the Reasonable Assurance notice. Address it with the new site, make a notation on the report, and **return a copy of the named notice** with your report. If a new site is not established, give the employee a **No Reasonable Assurance** notice. (Refer to Attachment 3, question 5.)
- b) If an employee is being dismissed from the district because of poor job performance, it is important that appropriate personnel procedures are followed and that we meet all of our contractual and legal obligations. You must advise all employees who do **not** have reasonable assurance and give them the **No Reasonable Assurance** notice; this indicates the employee should file an unemployment insurance claim. (Refer to Attachment 3, question 6.)
- c) In both cases above, include a brief explanation of the situation next to the employee's name; i.e., "released – lack of funding, reasonable assurance not given" or "released – poor job performance, reasonable assurance not given." (Refer to sample list—Attachment 4)
- d) If after giving an employee reasonable assurance, you subsequently decide to terminate the employee, give them the **No Reasonable Assurance** notice and call the Unemployment Insurance Specialist at (858) 627-7352 to advise of the change (Refer to Attachment 3, question 17.) ***This step is crucial, as the state will issue false statement penalties to districts that wrongly provide reasonable assurance notices to employees who were released. Your site budget will be charged with monetary penalties.***

6. Complete the processing of the computer printouts:

- a) Ensure that all employees listed on the printouts, and those added, are accounted for with initials or check marks and appropriate notations.
- b) Fill in the name and telephone number of the person who distributed the Reasonable Assurance notices and the date in the space provided on the printout.
- c) Make a copy of the completed printouts for your files.

7. Return the original, completed printout by May 30, 2008, to Risk Management Department, Revere Center, Room 7, Attention: Unemployment Insurance Specialist. A pre-addressed envelope has been provided. Please return non-distributed notices. If you are unable to meet this deadline, notify the Risk Management Department via email at dwarner1@sandi.net by the May 30, 2008 deadline.

Important: Site administrators and department heads are cautioned not to risk invalidating the reasonable assurance notice with verbal or written speculation about potential budget problems and other uncertainties that an individual employee could construe to indicate the possible elimination of his or her position. If an employee is given a locally prepared notice that he/she is being released from that site because of funding or program changes, and a new site has not been secured, be certain to include in that notice that the employee does not have reasonable assurance, and notify the Unemployment Insurance Specialist, at (858) 627-7352. ***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.***

All employees are asked to return their notice and completed response no later than June 6, 2008. The Reasonable Assurance notice instructs the employee to send the completed notice to Risk Management Department, Revere Center, Room 7. For staff planning purposes, if you want to have their responses routed through you, you must let the employees know of your wishes. (Refer to Attachment 3, question 20.)

If you have any questions about this process, or unemployment insurance issues, please call Dean Warner, unemployment insurance specialist, at (858) 627-7352.

Peter M. Iverson
Chief Business Officer
Business Operations Division

APPROVED:



William A. Kowba
Interim Chief Administrative Officer

PMI:dw

Attachments 4 (plus lists and addressed letters), are site specific and will be **mailed** separately to affected sites

Distribution: Lists A, C, D, E, and F