

**ADMINISTRATIVE CIRCULAR NO. 96**

Office of the Chief Financial Officer

**SAN DIEGO UNIFIED SCHOOL DISTRICT**

**Date:** May 8, 2009

**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 15, 2009 and May 29, 2009

**Reference:** Unemployment Insurance Code 1253.3 and 1142(b)

**Action Requested:** Distribute Reasonable Assurance notices by May 15, 2009, and return reasonable assurance list(s) by May 29, 2009.

**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 15 and May 29, 2009 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.

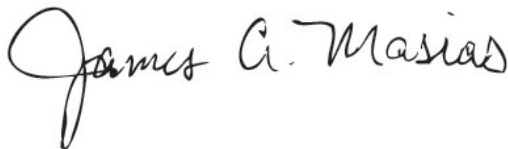
**7. Return the original, completed printout by May 29, 2009, to Risk Management Department, Revere Center, Room 7, Attention: Unemployment Insurance Specialist. A pre-addressed envelope has been provided. Please return non-distributed notices. If you are unable to meet this deadline, notify the Risk Management Department via email at [dwarner1@sandi.net](mailto:dwarner1@sandi.net) by the May 29, 2009 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 5, 2009. 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.

APPROVED:



James A. Masias  
Chief Financial Officer  
Office of Chief Financial Officer

JAM: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



# San Diego Unified School District

EUGENE BRUCKER EDUCATION CENTER  
Revere Center, Room 7, 4100 Normal Street, San Diego, CA 92103-2682

Phone: (858) 627-7352  
Fax: (858) 627-7567

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**FINANCIAL OPERATIONS DIVISION**  
Risk Management Department

May 15, 2009

Dear:

**RE: NO REASONABLE ASSURANCE**

As required by Section 1253.3 of the Unemployment Insurance Code, this is your official notice that the San Diego Unified School District is **not** providing you with reasonable assurance of returning to work with the district in the 2009 – 2010 school year.

Accordingly, you should file an unemployment insurance claim with the Employment Development Department (EDD) at the close of this school year or term. A claim can be filed by calling the EDD at 1-800-300-5616.

When you file a claim, your employer's name and address is:

**San Diego Unified School District  
4100 Normal Street  
San Diego, CA 92103-2682**

Sincerely,

Dean Warner  
Unemployment Insurance Specialist

## 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 notification due to site budget reductions or layoffs. Does this cancel a Reasonable Assurance notice he/she received?**

Possibly. If, through your assistance, the employee is selected at another site, then 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 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.*

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 within the district for such employees who are released from a particular site because

of funding or program changes. However, the district may be hiring hourly employees to replace those who leave other sites. Feel free to assist affected employees in securing 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 Donis Armenta, director, classified personnel, 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, provide 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, provide the **No Reasonable Assurance** notice.

8. **The jobs of employees in my work group are not affected by typical recess periods. Does reasonable assurance apply?**

It is unlikely that reasonable assurance will apply. 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 Unemployment Insurance 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 hourly 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. 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 [dwarner1@sandi.net](mailto:dwarner1@sandi.net) by the May 15, 2009 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.

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 Unemployment Insurance Specialist in the Risk Management Department. Since this situation usually happens after you process your reasonable assurance list, please call the Unemployment Insurance 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 Unemployment Insurance 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 Unemployment Insurance 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 Unemployment Insurance Specialist, at (858) 627-7352.

# SAMPLE \*

Report ID: SDHR500

Oracle  
REASONABLE ASSURANCE – CLASSIFIED HOURLY

Page No.: XX  
Run Date: XX  
Run Time: XX

XXXX Sample Elementary

EMPLOYEE NAME	JOB CODE	DESCRIPTION	LOC
Adams, Adam	6450	Noon Duty Asst	XXXX
Bobcat, Claudia	6450	Noon Duty Asst	XXXX
Borsch, Mikheil	6450	Noon Duty Asst	XXXX
Dizzeppo, Gunther	6453	Childcare Activity Asst	XXXX
Green, Delores	6101	School Clerk I	XXXX
Halo, Harold	6450	Noon Duty Asst	XXXX
Jellybread, Autumn	6453	Childcare Activity Asst	XXXX
Karensky, Karen	6450	Noon Duty Asst	XXXX
Lakeside, Stella	6425	Guidance Asst	XXXX
Roberts, Robert	6450	Noon Duty Asst	XXXX
Steele, Stanley	6450	Noon Duty Asst	XXXX
Washerman, Edith	6453	Childcare Activity Asst	XXXX
Yellow, Daisy	6450	Noon Duty Asst	XXXX

TOTAL EMPLOYEES AT THIS LOCATION = 13

EXCEPT AS NOTED, THOSE LISTED ABOVE OR WRITTEN IN BELOW HAVE RECEIVED REASONABLE ASSURANCE

SIGNED: \_\_\_\_\_ TEL: \_\_\_\_\_ DATE: \_\_\_\_\_

\* This sample is a “creation” to illustrate what a completed list *might* look like. Employees and comments are purely fictional.

COMPLETE AND RETURN THIS LIST BY (DATE)