USE ADDRESS PROVIDED ON

EDD APPEAL or on Notice of

Disqualification FORM

DATE

YOUR NAME

YOUR ADDRESS

***Note: Please make the appropriate edits, if you are a nurse, librarian or counselor.***

Dear Employment Development Department,

Greetings. My name is insert your name (Your Social Security Number &/OR preferably EDD Claimant Number). I am writing to appeal a Notice of Determination notice I received on date received, from the Employment Development Department (EDD).

To begin, I am a temporary, adjunct, contingent, hourly, part-time faculty member and instructor at NAME OF YOUR COLLEGE. Name of Your college is one of the four colleges within the Peralta Community College District (PCCD), in Oakland. Name of Your College’s address is as follows: ADDRESS OF YOUR COLLEGE. The Peralta district’s address is as follows: 333 E. 8th St., Oakland, 94607.

I also work at: **insert. IF TRUE**

Further, I work on a semester to semester basis; or on a summer or intersession term basis; *when* I amassigned to teach a class(es). When I am assigned to teach a class, I do so in the INSERT YOUR ASSIGNED DEPARTMENT (S), at YOUR COLLEGE, where I am an hourly, temporary instructor.

To be clear, I do not have tenure, nor am I a probationary *or* a full-time employee at YOUR COLLEGE. Thus, when each academic spring or fall semester(s), *in which* I have an assignment for, *ends*; and/or when the summer school or winter intersession *term ends*, I once again become legally unemployed.

To reiterate, I am a *temporary,* hourly employee. I am paid by the Peralta district *by the hour*, per my assigned hours of work by the college. Please also note that our district’s payroll dept. issues pay-checks on a monthly basis, generally dated on the last day of the month. However, I became unemployed upon completion of my last hour of teaching at the end of a semester, during Finals Exam.

To be clear, my last day of work for this past semester/summer school session/intersession (choose one) was: list date *Note: should be during Finals Week- after your last final or Finals Week’ office hour, whichever comes last*.

This was the case in the spring **or** fall semester (or intersession, summer school term) when the class I was assigned to teach, entitled, OFFICIAL NAME OF YOUR CLASS, *ended* on \_\_\_\_. Feel free to list what times/days the course met.

To explain further, the Peralta Community College District’s official Finals Week was from list official dates of Finals Week. This is per the district’s official Academic Calendar. Thus, when I filed for unemployment on repeat the date you applied for EDD or reopened your claim, I was officially unemployed.

Further, *as* a California Community College part-time faculty member, I am eligible for unemployment benefits per the Cervisi vs. Unemployment Insurance Appeals Board decision (208 Cal. App. 3d 635; Feb. 1989, California Supreme Court of Appeals), and my lack of “Reasonable Assurance”.

This decision is commonly referred to as the “Cervisi Decision'', and it bears directly on my entire case **IF TRUE.**

In the Cervisi decision, the Court held that a “contingent assignment is not a ‘reasonable assurance’ of “continued employment” within the meaning of the Unemployment Insurance Act, and does not disqualify the employee from the receipt of benefits.

The decision also established that part-time, temporary faculty members of California Community Colleges are entitled to unemployment compensation for periods *between semesters* and summer breaks, immediately upon completion of their last working day of the semester.

In terms of Cervisi and the basis for it: any future classes I am assigned to teach *are in fact* contingent upon enrollment, college and/or government funding, as well as college budgets, and/or program changes, and thus are *not* a “reasonable assurance” of employment (1253.3 subd. (g) ).

For reference, Employment Development Department Personnel can refer to their own internal Field Directive that followed the Cervisi Decision, Directive 89-55UI, which explains the definition of “reasonable assurance” and how Cervisi is to be applied.

As such, I believe I am entitled to unemployment benefits effective to my last date of work at Peralta, repeat last date of work.

At the conclusion of any given semester, I have no assurance of continued employment *because any* future employment assignment *is contingent* *upon* enrollment, funding, being bumped by a full-time faculty member or probationary employee; or because I can be terminated due to lack of funds or program changes.

For example, having *one’s name* in the printed or online Class Schedule and/or signing an offer of employment, does *not* constitute Reasonable Assurance.

When there is not enough student enrollment in my assigned class(es), they can be cut by the college administration. In fact, class cuts can occur anytime during the preceding weeks leading up to the start date of the class. In fact, I have personally had a class cut by the college administration. **IF TRUE**

Classes can be also cut up until \*Census Date, after the class has already begun. \*Census Date is the day the college and district report enrollment numbers to the state of California. Per a handbook entitled ‘Principles of Attendance Accounting for the California Community Colleges’ on behalf of the California Community Colleges Chancellor's Office, Census Date is “The day of the class meeting that is nearest 20% of the number of days the course is scheduled to meet.”

Please also know that I have yet to receive a Letter of Assignment from insert name of college for the upcoming term. **IF TRUE**

*Even if I were* to receive such a letter, it would **not** constitute a contract or legal agreement. Any assigned classes could still be eliminated based on the reasons listed above, namely: lack of enrollment, lack of funding, being bumped by a full-time or probationary employee; or because I can be terminated due to lack of funds or program changes. In fact, I’ve personally had a class canceled due to lack of enrollment.

I would also like the EDD to know that I believe I followed all of the requirements and rules, regarding when to apply for Unemployment Insurance, including completing the ID.Me process. **IF TRUE**

Additionally, my existing claim should have enough funds. When I log-in to UI online, my balance is indicated as: insert balance. **IF TRUE, feel free to attach a screenshot**

In terms of appealing, I wish to dispute the statements made by the EDD, and the department’s denial of my benefits per the insert date Notice of Determination.

(Feel free to quote statements text from Notice, that you wish to dispute)

To begin, I wish to dispute this statement:

Explain why this statement is incorrect. Provide details as to why you believe you are eligible for EDD benefits. Include any pertinent information.

In terms of appealing this denial of benefits, I would humbly ask the court to reconsider the denial of unemployment benefits. I very much rely on these benefits for my livelihood and am in financial distress at this time. **IF TRUE**

The benefit weeks I am missing include but are not limited to:

list weeks of benefits missed (to be found within UI online, under Claim Payment maybe)

Attach any important documents to your appeal, and list what they are here and what they are pertinent.

In conclusion, I believe I do meet the EDD’s unemployment eligibility requirements. In terms of my rights, I am covered by the aforementioned Cervisi Decision.

As such, I believe I am entitled to unemployment benefits since my last date of work at Peralta was, insert date.

I assert that I am and was eligible for California unemployment benefits as soon as my teaching assignment at insert name of college ended on insert last day of teaching. That was the last day of my assigned class, and since I am a temporary, hourly employee, I then became legally unemployed and thereby eligible for UI benefits per the Cervisi decision.

Further, I may have made an honest mistake in answering one or some of the questions online (or in a phone-interview), IF TRUE, explain what happened and clear up the record.

Please know that I very much rely on unemployment insurance benefits, while I am unemployed and looking for work. Add in any information about how not receiving benefits is personally affecting you.

In addition, during my time of being unemployed, I have been looking for full-time work, am available for full-time employment, am physically able to work and not in any school or training program. Further, I became unemployed through no fault of my own. **IF TRUE.**

Thus, I would request that my appeal be overturned and that my unemployment benefits be processed, so that I can receive my payments without any further delays. I look forward to hearing from you. My contact information is below.

I appreciate everything your department is doing for our state. Should you require any more information from me, please do not hesitate to let me know.

Thank you very much,

**YOUR NAME:**\_\_\_\_\_; **YOUR Email:** \_\_\_\_; **YOUR CONTACT PHONE NUMBER(S):**\_\_\_\_\_