



# Employment Law and Practices

Handling Tough Employment Issues – in a Pandemic

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# PRESENTER



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# OUTLINE

- Unemployment Filings and Appeals
- Employment Investigations
- Personnel Evaluations and Transitions
- Closed Sessions
- COVID-19 Challenges
- Q&A



# GENERAL FORMAT

Law

Scenario

Recommendations

*Note – Always consult the latest guidance, as this information changes on a regular basis.*



# UNEMPLOYMENT FILINGS AND APPEALS

- Unemployment insurance is income for workers who are temporarily unemployed for no fault of their own.
  - Alex Kornya, GC at Iowa Legal Aid

Unemployment insurance

Is income for workers

Who are temporarily unemployed

For no fault of their own



# UNEMPLOYMENT

- Filings and Paperwork
  - Notice, Fact-finding, Determination, Appeals



## Notice of Claim

A former employee has filed a claim for unemployment insurance benefits.

As an employer of this claimant within the past 18 months from the effective date of claim, your account may receive charges based upon wages you have paid this claimant unless you provide Iowa Workforce Development with information justifying relief from such charges. Any benefits paid may result in a rate increase to your account.



I am NOT protesting this claim

**Employer Statement of Protest** - Claimant may be subject to disqualification because of the following selected item(s):

- 1. The individual never worked for this employer.
  - 2. Quit voluntarily without good cause attributable to employer on: \_\_\_\_\_ Date
  - 3. Left employment to take other employment on: \_\_\_\_\_ Date
  - 4. Worked in part of my business which was sold on: \_\_\_\_\_ Date  
(employee was employed at time of sale).
  - 5. Discharged for misconduct in connection with work on: \_\_\_\_\_ Date
  - 6. Refused suitable work or recall to work on: \_\_\_\_\_ Date
  - 7. Still employed:
    - Part-Time     Full-Time
    - Employee requested reduced hours     No change in hours
    - Attend apprenticeship training \_\_\_\_\_ Date to \_\_\_\_\_ Date
    - Leave of absence \_\_\_\_\_ Date to \_\_\_\_\_ Date
    - Other \_\_\_\_\_
- Selecting either of the following indicates you are not protesting benefits for the dates listed below
- Temporary lay-off \_\_\_\_\_ Date to \_\_\_\_\_ Date
  - Hours reduced by employer \_\_\_\_\_ Date to \_\_\_\_\_ Date
  - 8. Involved in a union labor dispute/strike on: \_\_\_\_\_ Date
  - 9. Complete only for employees of educational institutions and athletes
    - a. Will perform services before and after the customary vacation or holiday recess.
    - b. Has a reasonable assurance or contract for performing such service in second or successive term/year: \_\_\_\_\_ Date Offered

Complete regarding benefits paid to claimant (after separation or on last paycheck and not including bonuses or sick pay)

- 10. If the claimant worked during the week of their separation, please provide:  
Number of hours worked that week: \_\_\_\_\_  
Gross wages paid: \_\_\_\_\_ Last day worked: \_\_\_\_\_
  - 11. Received vacation pay: \_\_\_\_\_ Date to \_\_\_\_\_ Date  
*Failure to provide the time period to which the vacation pay applies shall result in the entire amount being applied to the 5 working days following the last day worked.*  
Number of days/hours: \_\_\_\_\_  
Gross amount paid: \_\_\_\_\_
  - 12. Received severance pay, dismissal pay, separation allowance or wages in lieu of notice:  
Number of hours/days/weeks: \_\_\_\_\_  
Gross amount paid: \_\_\_\_\_  
If there was a severance agreement signed, please attach a copy.
  - 13. Received holiday pay for: \_\_\_\_\_ Date  
Gross amount paid: \_\_\_\_\_
  - 14. Gross wages earned (YTD): \_\_\_\_\_
- Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Fact-Finding Interview Information**

If you checked disqualification(s) 2 thru 9, a fact-finding interview may be necessary. You will be notified by mail of the time for the fact-finding interview and the fact-finding





# UNEMPLOYMENT REMINDERS

- Consistency and documentation
- Reminder: major CARES/ARA changes
- In Iowa, many new programs
- 1099-Gs issued in January
- Work search, job declination, final paycheck letter requirements

**“Iowa Workforce Development, not the Council, determines eligibility for benefits.”**



# UNEMPLOYMENT, CONT.

- Three takeaways for 2021:
  - Expect more appeals and clawed-back benefits (wrong program, ineligible, funding errors)
  - If employer terminates employee for misconduct – watch your documentation (new forms)
  - Charges to accounts (COVID-19 related)



# UNEMPLOYMENT SCENARIO #1

- Jane Doe was the CYC for the Norwegian County Extension Council for three years.
- In December 2019, she resigned to take another job.
- In September 2020, the Council got a notice from IWD – Jane applied for unemployment benefits.

What should the Council do?



I am NOT protesting this claim

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  - 5. Discharged for misconduct in connection with work on: \_\_\_\_\_ Date
  - 6. Refused suitable work or recall to work on: \_\_\_\_\_ Date
  - 7. Still employed:
    - Part-Time     Full-Time
    - Employee requested reduced hours     No change in hours
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  - 8. Involved in a union labor dispute/strike on: \_\_\_\_\_ Date
  - 9. Complete only for employees of educational institutions and athletes
    - a. Will perform services before and after the customary vacation or holiday recess.
    - b. Has a reasonable assurance or contract for performing such service in second or successive term/year: \_\_\_\_\_ Date Offered

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Remarks: \_\_\_\_\_  
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If you checked disqualification(s) 2 thru 9, a fact-finding interview may be necessary. You will be notified by mail of the time for the fact-finding interview and the fact-finding



# UNEMPLOYMENT SCENARIO #2

- John Smith is the Office Assistant for the Norwegian County Extension Council.
- In April 2021, the Council discovers John falsified his timesheets and terminates his employment.
- In May 2021, the Council receives a notice from IWD – John applied for unemployment benefits.

What should the Council do?



I am NOT protesting this claim

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  - 2. Quit voluntarily without good cause attributable to employer on: \_\_\_\_\_ Date
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# UNEMPLOYMENT SCENARIO #3

- Jose Lopez is a 4-H volunteer. He got paid mileage for a training, but otherwise has never received compensation from the Council.
- In May 2021, the Council receives a notice that Jose applied for unemployment benefits.

What should the Council do?



I am NOT protesting this claim

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# EMPLOYMENT INVESTIGATIONS

- Policies and Procedures
- What is a complaint?
- What needs to be investigated?
- Who should investigate?
- Why is this important?



# INVESTIGATION SCENARIO #1

- Jane Doe is a CYC. Jane complains to the Office Manager that John Smith, the Office Assistant, is late to work a lot.

What should the Council do?



# INVESTIGATION SCENARIO #2

- John Smith is an Office Assistant. John complains to the Personnel Committee that Jane Doe, the CYC, is not following COVID-19 procedures.

What should the Council do?



# INVESTIGATION SCENARIO #3

- Jose is a 4-H volunteer. Jose complains that Jane treats him differently than other 4-H volunteers.

What should the Council do?



# PERSONNEL EVALUATIONS AND TRANSITIONS

- Personnel Files
  - Medical Information
  - Discipline/Reviews
  - Investigation Records
  - Open Records
- Managing and Identifying Issues
  - Job expectations – job description? Current duties?
  - Training (initial and periodic)
  - Feedback and Documentation



# PERSONNEL EVALUATIONS AND TRANSITIONS

- Evaluations and Transitions
  - Who is evaluating, and who is in charge of transition items?
- Documentation
  - Offer Letter, Job Description, Evals, Final Paycheck Letter
- Conflicts of Interest
  - Annual reminder: Iowa Code Chapter 71 (Nepotism)
  - Financial, familial, or other workplace conflicts
  - What does the conflict of interest policy say?



# PERSONNEL SCENARIO #1

- Jane Doe is the CYC. Over the last few weeks, she's started coming in late, a few families have contacted the Office Manager complaining that they haven't heard back from Jane, and she has missed a few staff meetings.

What should the Council do?



# PERSONNEL SCENARIO #2

- John is the Office Assistant. It's time for his annual/standard personnel evaluation.

What should the Council do?





# PERSONNEL SCENARIO #3

- Jane submits her resignation effective June 1, 2021.

What should the Council do?



# CLOSED SESSIONS

- NOTE: Open records training last fall.
- Iowa Code Chapter 21 – Official Meetings Open to the Public
- Watch Quorum
- Some employment matters and other legal matters are best held in closed session.



# CLOSED SESSION SCENARIO #1

- The Personnel Committee becomes aware of an issue with a current employee. It is a serious issue.

What should the Council do?



*Iowa Code Section 21.5(1)(i)*

*To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.*



# CLOSED SESSION SCENARIO #2

- The Council is considering a new contract or lease. The Council wants to get the opinion of an attorney at its next Council meeting.

What should the Council do?



# CLOSED SESSION SCENARIO #3

- Jose is a 4-H volunteer. Jose complains that Jane, CYC, is harassing him. Jane, CYC, cross-complains that Jose is harassing her.

What should the Council do?



# COVID-19 CHALLENGES

- Stay at Home Orders, State-by-State variances
- Pending and Final Legislation (FFCRA/CARES Act)
- Unemployment programs, filings, and updates
- OSHA, EEOC, IRS, SEC, and other regulatory updates
- Remote work transitions and challenges
- Vaccination Availability and Policies
- ADA and Title VII FAQs



# THANK YOU/Q&A PERIOD

If you have additional questions, or want to confirm whether an answer applies to your specific Council or situation, pre-clear it with Jennifer Vit and then contact Kay at:

[oskvig@whitfieldlaw.com](mailto:oskvig@whitfieldlaw.com)

515-288-6041 or

<https://calendly.com/Oskvig>

