

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-48 (rev. 6), “UNEMPLOYMENT COMPENSATION”
SEPTEMBER 1, 2015
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TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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SUPERSEDES: PD-48 (rev. 5)
August 1, 2011

EXECUTIVE DIRECTIVE

SUBJECT: UNEMPLOYMENT COMPENSATION

AUTHORITY: *Texas Unemployment Compensation Act*, Tex. Lab. Code §§ 201.001-215.044; Tex. Gov't Code 493.001, 493.006(b)

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

Former employees of the TDCJ who have been separated from employment with the TDCJ as a result of a reduction in force and other employees may be eligible for unemployment compensation.

DEFINITIONS:

"Claimant" is a former employee or an employee currently in a leave status who pursues an unemployment compensation claim under the procedures set forth in this directive.

"Hearing Officer" is a person employed or appointed by the Texas Workforce Commission (TWC) to hear and decide disputed claims for unemployment compensation under the *Texas Unemployment Compensation Act*.

“Reduction-in-Force (RIF) Separation” is the involuntary separation from employment of an employee whose position has been eliminated by the TDCJ for reasons not related to job performance or disciplinary violations.

“Unemployment Compensation” is weekly payments that may be made to unemployed individuals from an unemployment compensation fund contributed to by employers subject to unemployment taxes or reimbursements under the *Texas Unemployment Compensation Act*.

“Witness” is a person who has firsthand knowledge pertinent to an issue under review.

DISCUSSION:

The TDCJ does not directly or indirectly exercise any management decisions in the unemployment compensation program. Determination of claimant eligibility, disbursement of benefits and all other aspects of unemployment compensation program administration is a function of the TWC. The Unemployment Benefits Section of the TWC makes determinations of eligibility on a case by case basis.

Some information included in this directive was obtained and reproduced from publications issued by the TWC, and is therefore subject to revision. Individuals who desire updated information or clarification of any TWC material published herein should contact the local TWC Office. Information and details regarding unemployment claim procedures may also be obtained through the TWC website at www.twc.state.tx.us.

PROCEDURES:

I. Claimant’s Responsibilities

A. Filing an Unemployment Compensation Claim

To claim unemployment compensation benefits, a claimant shall file an initial claim for unemployment compensation showing the name of the employer last worked for and the reason for unemployment. A claim for unemployment compensation benefits may be filed:

1. Electronically through the TWC website at www.twc.state.tx.us from a personal computer located at a state employment service office or any other personal computer; or
2. Via telephone. The TWC’s toll free number is 1-800-939-6631.

B. Registering for Work

Within three business days of submitting the initial unemployment compensation claim, the claimant must register for work in person at a Texas Workforce

Solutions office or via the TWC website. Registration for work is separate and distinct from filing an unemployment compensation claim application. The claimant's registration for work gives the TWC an opportunity to help the claimant find employment.

II. Texas Workforce Commission Claim Investigation and Determination

The TWC will conduct an investigation to help determine the claimant's entitlement to benefits, and will mail a notice of the initial claim to the last employer named on the claim. Employee Relations, Human Resources Division shall be responsible for responding to claims from claimants, and shall notify the TWC in writing of any facts that may affect the claimant's eligibility to receive unemployment compensation benefits.

III. Appeal of a Texas Workforce Commission Determination

The appeal of a TWC determination results in a hearing.

- A. If a TWC investigation results in a determination in favor of the claimant, Employee Relations, Human Resources Division shall appeal the claim, unless the claim resulted from a RIF or a medically verifiable reason.
- B. If a claimant appeals a TWC decision, Employee Relations shall be responsible for preparing a defense, requesting the attendance of witness(es), and appearing at the hearing.

IV. Texas Workforce Commission Hearing

- A. A TWC unemployment compensation hearing is a fact finding process that uses a question and answer method. Each side may present testimony, witnesses, and documentation relevant to its case.
- B. TWC hearings are held by telephone, and the TWC schedules all hearings. The TDCJ does not have the authority to change the date or time of a hearing.
- C. If the TDCJ requires an employee to give testimony, the following guidelines shall apply:
 - 1. The employee shall give testimony over the phone at the employee's assigned unit, department, or temporary assigned duty point.
 - 2. The hearing shall be considered official business, and the employee's time shall be reported as time worked. Employees shall advise their warden or department head prior to the scheduled appearance, providing the employee's supervisor with sufficient advance notice to provide adequate staffing.

- D. If an employee is testifying as a claimant, or if an employee is requested to testify as a witness on behalf of a claimant, the following guidelines shall apply:
1. The employee or claimant shall not be entitled to report the service as time worked and shall take accrued leave or leave without pay in accordance with TDCJ leave policies.
 2. The employee or claimant shall not use state equipment to prepare for or participate in the hearing, or the employee or claimant shall be subject to disciplinary action in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."
- E. The TWC hearing officer is responsible for conducting a fair hearing, determining what evidence is relevant, and ensuring the record is complete.

V. Questions or Claims Submitted to Human Resources Representatives

A human resources representative shall refer any question regarding unemployment compensation to Employee Relations, Human Resources Division. If a unit or department receives a claim for unemployment compensation, the human resources representative shall immediately fax a copy of the claim to Employee Relations and then mail the original document via first class mail to Employee Relations, Human Resources Division, 2 Financial Plaza, Suite #600, Huntsville, Texas 77340.

Brad Livingston
Executive Director