

Successfully Fighting Unemployment Insurance Claims

by Michael Blackstone, co-founder of Frontline Placement Technologies – creators of Aesop

In an economy where state budgets are dictating steep cuts, districts are scrutinizing every area of potential savings, and unemployment benefits are starting to come into the spotlight.

The challenge comes from substitute teachers who, due to the overcrowded substitute pools and a decline in work, have been filing for unemployment benefits at record rates – at the districts' expense. While some of these claims may be merited, others are not, specifically those coming from substitutes who have rejected opportunities to work at their local districts.

Personnel at many districts are not only burdened by the expense, but bothered by the whole idea.

"For me, it's the principle of it," said Brenda Fleisher, from North Plainfield School District in New Jersey. "This is what's wrong with unemployment and if people are allowed to get away with it, they'll continue to do it."

Steven Swerdlick of New Canaan Public Schools expressed similar sentiments in a recent article in *New Canaan News*.

"People agree to be a substitute knowing it's not going to be work every day, and then turn around and ask for unemployment," he said. "We struggle with the idea that substitutes can collect unemployment at all. This is why it's called a 'substitute' – because you're there when a teacher is absent. They aren't the same thing."

Districts are just starting to explore solutions to this growing problem, but several options are emerging that can help districts not only fight against unmerited claims, but discourage these claims from ever being submitted.

1) A Letter of Reasonable Assurance

One of the simplest ways to begin addressing substitute unemployment claims is by sending a Letter of Reasonable Assurance to the entire substitute pool. This letter, such as this example from Northside ISD (<http://www.nisdtx.org/120710426161926170/lib/120710426161926170/1011subLRA.pdf>), is usually sent out in June and states that the substitute is assured of employment in the coming school year. It can also inform the substitutes that they are not entitled to unemployment benefits for school breaks (such as summer and Christmas) and reinforce that they are an "on-call" employee and are not guaranteed a consistent work schedule.

Many districts have begun sending out these letters and requiring substitutes to sign and return them in order to stay on the substitute calling list. While this letter cannot prevent a substitute from filing for unemployment, it can discourage it. The district can also keep this letter on file for fighting a possible claim, to show that the substitute agreed to the conditions in the letter.

2) Collecting and Analyzing Data

If a district is going to fight an unfounded unemployment claim, it needs data to support its case. Claims are often turned down when the district can demonstrate that the substitute repeatedly turned down opportunities to work or was unavailable for work.

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Collecting this data is not always easy. For many districts, this process involves keeping a log of every call to substitutes and how they responded – whether they accepted the assignment, rejected it, hung up, or did not answer the call.

Some districts have found an easier method by recording the data through an automated substitute placement system. A web and phone-based system will automatically call substitutes and then keep a log of all calls and responses. Some systems will also keep a record of when substitutes log into the web application and which jobs they view, which they accept, etc. District personnel can export and manipulate this data to provide meaningful reports for the unemployment office.

“We have found that one benefit of a substitute teacher calling system is the ability to produce reports verifying the times and dates they were called and offered a job and the substitute teacher’s responses,” said one respondent in a recent STEDI survey. “I have successfully disputed several claims. Once the word gets out, the number of claims drops.”

Fraudulent claims – those filed by substitutes who refused work in one district but accepted work in another – are especially hard to collect data on, unless the automated system is multi-tenant (hosts all its clients on one application). In that case, districts are able to view their substitutes’ job acceptance history in neighboring districts.

Lenora Boehlert at White Plains School District in New York uses a multi-tenant system called Aesop for automating substitute placement and documenting substitute activity.

“We can show that they were offered assignments and took them elsewhere,” she said. “I can show if they aborted the call, didn’t answer, etc. I print off that info and take it to an unemployment hearing. So far, we’ve been able to win 96-98% of our substitute claims for unemployment insurance.”

3) *Giving Preference to Certain Substitutes*

Unemployment compensation guidelines vary for each state. New York, for example, has a unique exception, sometimes called the “holiday rule,” which allows substitutes to file for unemployment benefits if they worked a certain number of days before a holiday, and then that level of work was not maintained *after* the holiday.

Districts in states with these types of situations can circumvent claims by making sure to place substitutes who worked before a holiday on a preference list to be called first after the holiday.

4) *Unemployment Insurance Service Provider*

Another option for school districts is to handle their unemployment claims through an unemployment insurance service provider. These agencies consist of a team of professionals skilled in analyzing claims, representing their clients in court, and helping districts and other organizations to manage their claims and reduce unemployment costs.

Whatever method districts choose for handling these claims, the issue is not going to go away and will in fact only increase in the attention it gains from districts as they seek every avenue for cutting costs.