



PAYROLL ADMINISTRATION MEMORANDUM

2012 – 2013

No. 25



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Executive Director

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Francine Perkins Colón
Chief Administrator
Payroll Administration

DATE: June 7, 2013
TO: CFN Executive Directors (Via Email)
Principals (Via Principal's Weekly)
Payroll Secretaries (Via Email)
FROM: George Vasiliou
SUBJECT: **Witness Testimony for Unemployment Hearings**

This memorandum serves as a reminder of the New York State Department of Labor's (NYSDOL) decision to allow witness testimony, *by telephone*, in unemployment insurance hearings. Specifically for per diem employees who receive "reasonable assurance" letters in June, and who are subject to the provisions outlined in State law sections 590.10 and 590.11.

This section of the law indicates that per diem substitutes are *ineligible* to collect unemployment benefits in-between school-terms during July and August, as well as other school recesses.

The State granted this request, contingent upon the DOE making witnesses available, at *pre-specified times*, to testify in these hearings. Though during the hearing, both the Claimant and the DOE must provide testimony, the burden of proof is on the DOE to produce school-based witnesses, with personal knowledge of its personnel and hiring procedures and therefore school-based staff participation is critical.

Furthermore, NYSDOL acknowledges that sending witnesses to hearings creates an undue hardship on Principals and other school-based staff, and that the Department is unable to provide credible school-based witnesses during the summer months since schools are closed.

Therefore, the State will allow the DOE to postpone these hearings until school re-opens in September, provided that we keep our commitment to have witnesses *ready and available for telephone testimony*.

We are asking that Principals, when contacted by our unemployment insurance representatives or personnel liaison, ensure that the school representative who is responsible for calling substitutes to work, be available, *by telephone*, to provide testimony relative to the preparation of substitute rosters, and how those rosters are utilized to call/hire per diem substitutes.

School-based witnesses, who are asked to testify, will be contacted in advance by a DOE representative, who will provide them with specific instructions regarding the hearing and testimony.

We thank you for your attention to this very important matter.

CC: Francine Perkins Colón
Kevin Monroe