

Keep Your Unemployment Claims Under Control

The Federal-State Unemployment Insurance Program provides financial aid to eligible workers who are unemployed through no fault of their own, as determined under state law. Businesses carry mandatory unemployment insurance to cover the cost of this benefit, and rates vary depending on past claims against the business. Businesses today are concerned about rising unemployment insurance rates after an influx of claims during an economy which has resulted in eliminated positions and staff cutbacks.

Although laws vary by state, generally employees that quit are not eligible for unemployment benefits, while those who are fired are eligible. Fired employees may not be eligible if they are dismissed for misconduct involving disregard of the employer's interest, deliberate violation of employer's known rules, failure to meet normal expectations of behavior or wrongful intent. (For more information on your state unemployment laws, visit the United States Department of Labor website at http://www.dol.gov/esa/contacts/state_of.htm.)

There are several things businesses can do proactively to protect their unemployment rates.

Chose to **fight unemployment claims** that you feel are not reasonable or within state law. When missing hearing dates or response deadlines, the state will often favor the claimant.

In order to determine which unemployment claims are legitimate, you will have to **educate your managerial staff** on applicable state and federal laws regarding unemployment benefits. Make clear your processes for unemployment benefits within your company, and identify a human resource staff member to whom they should direct questions. It is expected that the direct manager of the employee in question, in addition to your human resource representative, will sit in on the proceedings of any unemployment disputes. Additionally, first-hand witnesses must be present on telephone hearings in order for your company to have a believable case.

Publicize your company policies. You can only prove that employees have broken rules if it is clear the employee is aware of and understands the rules of your company. Create a simple document for each employee to sign that states the employee received and understands the employee handbook. Make sure to get new signatures as the handbook changes over time and as you hire new employees.

Document misconduct. It is the employer's obligation to prove misconduct occurred. Keep record, with employee signature, of any discipline between manager and employee. Keep phone records, copies of emails or other items that will serve as supporting evidence. Document issues as they occur so you do not need to rely on memory. Improperly documented or undocumented issues could be considered hearsay and may not support your case.

Be consistent when enforcing policies. You will have a difficult time convincing the state that an employee engaged in serious misconduct if another employee exhibited the same behavior without consequence.

Inform your employees that **termination could be a consequence** of certain behaviors. If the employee knows rules and consequences but chooses to act anyway, deliberate violation or disregard can be proved. Your handbook or disciplinary actions should utilize the language “discipline, up to and including discharge”.

Terminate the employee within a reasonable time frame. If a significant amount of time passes between the misconduct and the termination, it may be perceived that the misconduct was not the true reason for termination.

Putting these measures in place will make fighting illegitimate unemployment claims simple and will help protect your company’s unemployment insurance rates.

For more information contact Tandem HR at 630.928.0510 or visit www.tandemhr.com. The staff at Tandem HR contributed to this article. It is intended as information only and is not a substitute for legal advice. Tandem HR is a professional employer organization specializing in strategic HR partnership with small and mid-sized businesses.

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