



DoD INSTRUCTION 1400.25, VOLUME 850

DoD CIVILIAN PERSONNEL MANAGEMENT SYSTEM: UNEMPLOYMENT COMPENSATION (UC)

Originating Component:	Office of the Under Secretary of Defense for Personnel and Readiness
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Approved by:	A. M. Kurta, Performing the Duties of the Under Secretary of Defense for Personnel and Readiness

Purpose:

- This instruction is composed of several volumes, each containing its own purpose. The purpose of the overall instruction, in accordance with the authority in DoD Directive (DoDD) 5124.02, is to establish and implement policy, establish procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the DoD.
- In accordance with DoDD 1400.25 and Chapter 85 of Title 5, United States Code, this volume establishes policy, provides procedures, delegates authority, and assigns responsibilities for implementing the DoD Unemployment Compensation for Federal Employees (UCFE) Program.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

1.2. POLICY. It is DoD policy, in accordance with DoDD 1400.25, to issue uniform civilian personnel policies, procedures, and guidance for the administration of the DoD UCFE Program.

1.3. INFORMATION COLLECTIONS. The UCFE Claims Form, referred to in Paragraphs 3.2. and 3.10., does not require licensing with a report control symbol in accordance with Paragraph 1.b.(8) of Enclosure 3 of Volume 1 of DoD Manual 8910.01.

SECTION 2: RESPONSIBILITIES

2.1. ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS (ASD(M&RA)). Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, the ASD(M&RA) has overall responsibility for the development of DoD civilian personnel policy covered by this volume.

2.2. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR CIVILIAN PERSONNEL POLICY (DASD(CPP)). Under the authority, direction, and control of the ASD(M&RA), the DASD(CPP) supports the development of civilian personnel policy covered by this volume and monitors its execution by DoD Components, ensuring consistent implementation and continuous application throughout DoD.

2.3. DIRECTOR, DEPARTMENT OF DEFENSE HUMAN RESOURCES ACTIVITY. Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, the Director, Department of Defense Human Resources Activity, provides support to the DASD(CPP), as appropriate, in execution of duties and responsibilities under this volume.

2.4. DOD COMPONENT HEADS. The DoD Component heads or, for those DoD Component heads without independent appointing authority, the head of the office providing civilian personnel support:

- a. Oversee the installation, administration, and management of the UCFE Program and ensure that the procedures in Section 3 are followed within their Components.
- b. Budget for quarterly UCFE charges and pay the Defense Finance and Accounting Service (DFAS), thereby allowing DFAS to reimburse the Department of Labor (DOL) for the amounts owed in accordance with Chapter 6 of Volume 8 and Chapter 13 of Volume 12 of DoD 7000.14-R.

SECTION 3: PROCEDURES

3.1. PROGRAM ADMINISTRATION.

a. Statutory and Regulatory Controls. Chapter 85 of Title 5, United States Code, establishes a permanent UCFE Program and authorizes the Secretary of Labor to promulgate rules and regulations for the UCFE Program. The Secretary’s regulations are located in Part 609 of Title 20, Code of Federal Regulations (CFR) and further clarified in the DOL Handbook, “Unemployment Compensation for Federal Employees Instructions for Federal Agencies.” The UCFE Program involves access to and utilization of civilian personnel records that are covered under Section 522a of Title 5, United States Code (commonly known as “the Privacy Act of 1974”) and DoDD 5400.11.

b. State Administration.

(1) **Agreements With DOL.** The DOL has entered into agreements with all of the States, the District of Columbia, Puerto Rico, and the Virgin Islands (referred to in this issuance as “States”), to administer the UC programs and allow State Employment Security Agencies (SESAs) to determine and pay UC claims, review appeals, and conduct due process hearings based on the applicable State UC law. Generally, the applicable State for a federal employee is the State of the employee’s last official duty station before filing a first claim. Exceptions are noted in Part 609.8 of Title 20, CFR. SESAs are required to provide UC benefits to former federal employees in the same amount and under the same terms and conditions as to non-federal employees. However, State UC laws are not uniform, which may cause considerable variations in eligibility requirements, procedures, and amounts of UC entitlements.

(2) **Overseas Employment.** The DOL does not have agreements concerning the administration of UC benefits with any countries except Canada, pursuant to the 1942 Memorandum of Agreement between Canada and the United States. Therefore, to be eligible for UC benefits, individuals who performed federal civilian service overseas must return to one of the States (or Canada) to submit a claim. Individuals who performed federal civilian service in any U.S. territory not listed above must return to one of the States.

3.2. MANDATORY UCFE CLAIMS FORMS. SESAs generate many different UC claims-related forms. This section addresses the two mandatory claims forms that must be completed for each UC claim: the Standard Form (SF) 8, “Notice to Federal Employee About Unemployment Insurance” and the Employment Security (ES) Form 931, “Request for Wage and Separation Information.” Additional UCFE claims-related forms that apply under specialized circumstances are discussed in Paragraph 3.10.

a. SF-8.

(1) Description and Purpose

(a) Federal agencies are required to furnish information on the rights and responsibilities of employees under the UCFE Program to their employees upon their separation.

The form is printed by the General Services Administration and available on the General Services Administration forms portal, and describes the information the employee will need to provide in order to file a claim for UC benefits.

(b) The SF-8 provides a space for the human resources specialist to indicate the Federal Agency Code identifying which DoD Component should be charged for the UC benefits.

(2) **Requirements for Issuance.** In accordance with Part 609.20 of Title 20, CFR, Section 1919 of Title 18, United States Code, and Section 1 of Chapter V of the DOL Handbook, human resources specialists must issue an SF-8 to any employee who is separated, who is or who will be placed in non-pay status for 7 or more consecutive days, or who is transferred from one payroll office to another. This requirement does not pertain to situations where only the employee's records are transferred to another payroll office. Human resources specialists must:

(a) Issue the SF-8 whether the separation or non-duty status is voluntary or involuntary in nature. Additionally, human resources specialists must issue the SF-8 before or at the time of separation and not delay until the SF-50, "Notice of Personnel Action," is issued. These requirements also pertain to civilian employees who are stationed overseas.

(b) Ensure that the purpose of the SF-8 is explained to employees before separation, preferably during out-processing. It is important that the human resources specialist stress that the employees bring the SF-8 with them to the local unemployment office when they file a claim for UC benefits; otherwise, the employees' initial UC payments may be delayed.

(c) Issue an SF-8 to intermittent employees and employees who work on call the first time they are placed in non-pay status in each calendar year. Human resources specialists should issue an SF-8 to part-time employees when there is a change in the number of hours worked and to temporary employees on their last day of work when their appointments expire, or when the first instances of non-pay status occur.

(d) Inform each newly hired or rehired employee that it is his or her responsibility to notify the local unemployment office to discontinue paying UC benefits when the individual has returned to work. The formal statement the human resources specialist must use is included on the SF-8.

(3) **Completion.** The SF-8 should be completed as follows by the human resources specialist in the local operating civilian personnel office/human resources office (CPO/HRO).

(a) **Federal Identification Code (FIC)**

1. The human resources specialist must provide the three-digit FIC in the space indicated on the SF-8. The human resources specialist must provide the FIC for the most recent employer for whom the employee worked (the owning agency) and not the FIC of the servicing personnel office, unless they are the same.

2. The FIC for employees of appropriated fund agencies are listed in Table 1.

Table 1. FIC of Appropriated Fund Agencies

Employer	FIC
DoD Agencies	421
Department of the Army	422
Department of the Navy	423
Department of the Air Force	424

3. The FIC for employees of non-appropriated fund (NAF) activities are listed in Table 2.

Table 2. FIC of NAF

Employer	FIC
Department of the Army NAF	425
Department of the Air Force NAF	427
Army and Air Force Exchange Service	429
Navy Exchange Service	807
Navy Club and Recreation System	808
U.S. Marine Corps Morale, Welfare, and Recreation	809

(b) **Address Block.** Two pieces of information are required in the address block. First, the human resources specialist must indicate the complete name of the employing agency from which the employee is being separated. Second, the human resources specialist must indicate the name and mailing address of the servicing CPO/HRO. The human resources specialist must annotate which is the “agency from which the employee is being separated” and which is the “CPO/HRO,” since the SESA should charge the UC claim to the agency from which the employee is being separated. Additionally, the human resources specialist should not use any acronyms in the name or address, spelling out all words instead. The SESA will send the UC claim forms to the address specified to be processed.

(c) **Contact Person.** The human resources specialist should indicate the name and phone number of a contact person in the appropriate block. If requested by the SESA, the contact person should provide additional information about the employee’s separation. The human resources specialist should provide the complete commercial phone number of the contact person, including the area code, rather than the Defense Switched Network number. If the phone number is international, the human resources specialist should indicate this on the SF-8 and provide the necessary codes.

(d) **Base Closures.** If a base has or will be closed, the DoD Component must determine which CPO/HRO will be responsible for processing the SF-50 and SF-8 for each base civilian employee. The human resources specialist must indicate the address for the designated CPO/HRO in the address block of the SF-8. The designated CPO/HRO must have access to pay and separation information.

b. ES Form 931, “Request for Wage and Separation Information”

(1) **Description and Purpose.** When a former federal employee establishes an initial claim for UCFE benefits, the SESA initiates the ES Form 931 by sending it to a DoD Component to request wage and separation information for the employee.

(a) The ES Form 931 is used to obtain an employee’s wage information for specific quarters. Most SESAs request 6 quarters worth of wages, 4 of which comprise the base period. The SESA then uses the base period wages to determine the UC benefit amount for an individual. Most SESAs use a base period that is composed of the first 4 of the last 5 completed calendar quarters. For example, the most recent completed calendar quarter for a UC claim filed in January 2015 would be the quarter ending December 31, 2014. The 4 quarters before that would be the quarters ending September 30, 2014; June 30, 2014; March 31, 2014; and December 31, 2013. Therefore, the base period would be October 1, 2013 (beginning date of the quarter) through September 30, 2014. The lag quarter wages, which are the 2 quarters following the base period, would be the quarters ending December 31, 2014, and March 31, 2015. SESAs keep the lag quarters of wages on file in case a subsequent UC claim is filed.

(b) Once the ES Form 931 is completed and returned by the human resources specialist, the SESA will determine the claimant’s weekly and maximum UC benefit amounts. Each of the SESAs uses a different formula to determine the weekly benefit amount. Many of the SESAs stipulate that an individual must have a minimum amount of wages during 1 or more of the quarters of the base period to meet the minimum wage eligibility requirement. The amount of wages in the base period also determines the number of weeks the claimant will be eligible to receive UC benefits (known as the “duration”). The maximum benefit amount is the weekly benefit amount times the duration.

1. The ES Form 931 generally consists of the local office information, claim information, and three main sections, discussed in Paragraphs 3.2.b.(1)(b)1 – 4. However, the SESAs are not required to have a uniform format, so the formats vary from State to State. The local SESA office information generally contains the name or location number of the local SESA office, and the name and telephone number of a local SESA office contact person. The claim information generally consists of the date the new claim was filed (which is the effective date of the claim) and the date the claim was requested by the SESA.

2. Section I of the ES Form 931, completed by the human resources specialist, consists of identification data such as the employee’s name, social security number, date of birth, position title, and place of employment. This section indicates if the employee was a full or part-time employee, whether the DoD Component address is the same as that listed on the SF-8, and whether or not the employee received an SF-8.

3. Section II of the ES Form 931 is the DoD Component reply that requests information such as whether the employee performed federal civilian service, the duty station of the employee, the quarterly wages earned by the employee, and the duty hours of the employee. This section includes information about terminal annual leave payments, severance payments, and separation information, including the last date worked, the last day of active pay, and the

reason for separation, as well as the name, title, and phone number of the agency representative who completed the ES Form 931.

4. Section III of the ES Form 931 is completed by the SESA and contains the FIC number for the agency and the address to which the ES Form 931 is sent. In most instances, the SESA obtains this information from the SF-8. Since not all SESAs require that an individual submit an SF-8 when a UC claim is filed, ES Form 931 now contains Section III.

(2) **Requirements.** The requirements for the ES Form 931 are found in Parts 609.21-22 of Title 20, CFR, and Sections 1-3 of Chapter IV of the DOL Handbook.

(a) The human resources specialist must return SESA requests for federal findings within 4 workdays of receipt. This timeline applies to the ES Form 931 as well as to most other UC claims-related forms sent by SESAs. Two signed copies of the ES Form 931 should be returned to the SESA. If the human resources specialist cannot meet the 4-day time limit, he or she should notify the SESA of the delay and the date the form will be returned.

(b) Additionally, the human resources specialist must maintain a control log of all the UC forms received by the SESAs, including ES Form 931 forms. The log should include the date the forms are received, the date the forms are returned to the SESA, and any forms that have not been returned in the 4-day period. The human resources specialist should retain a copy of the completed ES Form 931, as well as any other correspondence with or forms from the SESA, for a period of 1 year from the date the form was certified. If an error is discovered within 1 year of the date an ES Form 931 was sent, the human resources specialist should send an amended ES Form 931 to the SESA.

(3) **Completion.** The human resources specialist completes Section II of the ES Form 931 either manually or by using the Defense Injury and Unemployment Compensation System (DIUCS). Operated by the Injury Compensation and Unemployment Compensation (ICUC) Branch, Benefits and Work Life Division, Human Resource Operational Programs and Advisory Services Directorate of the Defense Civilian Personnel Advisory Service (DCPAS), the DIUCS consists of a centralized database of key personnel and payroll data. The UC module allows human resources specialists to obtain information about quarterly wages, lump-sum annual leave payments, severance pay, and separation information for a particular individual, while containing a screen that allows the user to print an automated response to the ES Form 931. The DOL Handbook provides directions for responding to the ES Form 931. If the wages or separation information is not available in DIUCS, then the human resources specialist must obtain and enter the information manually before printing and returning the automated ES Form 931 response. When possible, the human resources specialist should use the automated system to respond to the ES Form 931. This helps ensure the ES Form 931 response is completed within the 4-day time limit. Additionally, if an ES Form 931 is created using DIUCS, the system maintains an electronic log of the dates the ES Form 931 was received and returned, eliminating the need for a manual log.

(a) **Part I of Section II.** The human resources specialist should verify the social security number and employee name. If either item is incorrect, the human resources specialist should provide the correct information. The first response the DoD Component must provide is

in Part 1 of Section II, question (a), of the ES Form 931. This question asks: “Did this person perform federal civilian service for your agency at any time during or after the base period?” If the human resources specialist answers “no” to that question, then an explanation must be given.

1. The SESA will review the information provided by the DoD Component to determine if the employment was considered federal civilian service for UC purposes. Therefore, the response must be as detailed as possible. If possible, the human resources specialist must provide:

- a. The legal authority under which the individual was hired.
- b. The funding source used to pay the individual’s salary.
- c. Whether payroll deductions were made for federal and State taxes.
- d. Whether the employee was eligible for annual or sick leave, health or life insurance, and civil service retirement or other federal retirement.

2. The human resources specialist should indicate the duty station, although only the State or country is needed. This should correspond to the duty station specified on the SF-50.

(b) Part 2 of Section II. Part 2 of Section II of the ES Form 931 requests the base period and lag quarters for federal wages.

1. DOL has determined that:

a. Cost of living differentials such as those paid at various foreign posts and cash allowance for quarters and subsistence are federal wages. Exemption of such a differential or allowance from federal income tax does not exclude the differential or allowance from being reported as a federal wage for purposes of the UCFE Program.

b. Back-pay awards constitute wages in the period for which they are paid. Consequently, the payroll specialist must allocate the amount of the award to the calendar quarter or weeks for which it was paid, rather than reporting it as a lump-sum when paid.

c. In certain cases, DoD Components employing civil service annuitants pay remuneration in an amount equal to the difference between the salary rate of the position and the amount of annuity received. In other instances, DoD Components pay civil service annuitants the entirety of their pay regardless of the amount of annuity received. In either case, Office of Personnel Management (OPM) continues to pay the employee’s annuity. Only the amount paid by the DoD Component constitutes federal wages. The annuity paid by OPM is not considered federal wages for UCFE purposes.

2. Reimbursed expenditures for official business, such as taxi fares, other transportation costs, per diem in lieu of subsistence, and mileage are not federal wages for UCFE purposes.

3. DoD Components must report the wages paid during the period requested by the SESA, in accordance with Part 609.21 of Title 20, CFR. The payroll specialist should **not** adjust the wages to include the total wages earned in the quarter but not paid for the days remaining between the payroll cutoff date and the ending date of the calendar quarter or period. Part 2 of Section II of the ES Form 931 requests the duty hours by workday and workweek and, in some cases, the hourly rate of pay.

4. DFAS will allocate the retroactive portion of the increase in rate of compensation provided by Congress to the pay period in which it is paid. If the requesting State's base period begins or ends during the pay period in which that payment was made, the payroll specialist should allocate the entire payment to the second week of the pay period.

(c) **Part 3 of Section II.**

1. In Part 3(a) of Section II of the ES Form 931, the terminal annual leave payment should include the amount of the payment, the number of days and number of hours paid, and the period covered by the terminal annual leave.

2. In Parts 3(b) to 3(e) of Section II, the date of separation, last date of active pay, and reason for separation information should be indicated.

a. The human resources specialist must state, in sufficient detail to permit the SESA to make an accurate determination of benefit entitlement, the reason for separation or non-pay status. The SF-50 or equivalent document contains the information needed by the SESA for the reason for termination or non-pay status in the section "Nature of Action and Remarks."

b. If the employee was not separated, but instead placed in a non-duty, non-pay status subject to recall to work, the human resources specialist should record the specific reason for such status (e.g., "laid-off, lack of work") along with the date the layoff occurred. If available, the human resources specialist should include the date the employee is expected to return to work.

3. The human resources specialist should indicate any severance payments in Part 3(e) of Section II. This information should include the weekly amount of the payment, the total entitlement, the number of weeks paid, and the beginning and ending dates of the payment. The human resources specialist must provide the severance and terminal annual leave information because some SESAs deduct these payments from UC benefits.

(d) **Certification.** The human resources specialist who completes the ES Form 931 must sign and date that form. By signing that form, the human resources specialist certifies that the information is correct and complete. The certifying official must include his or her title and telephone number in case the SESA needs additional information.

3.3 ADDITIONAL REQUESTS FOR INFORMATION. The SESAs may submit other requests for information, as necessary, via the SESA form or by letter. The requests will vary significantly from State to State; therefore, the human resources specialist should follow the directions on each specific request.

a. Partial Unemployment. Generally, SESAs provide for the payment of partial UC benefits for employees who are working less than full-time and earning wages less than a specified amount. In those cases, the SESA will request verification of the number of hours worked and the wages earned by the employee in particular weeks.

b. Requalification for UC Benefits after a Disqualification. In certain situations, employees are disqualified for a specific number of weeks or until earning a specific amount of wages. SESAs may request information about either the number of weeks worked or the amount of wages earned, or both, to determine if the employee has satisfied the requalification requirement.

c. Benefit Payment Control (BPC).

(1) **Description and Purpose.** SESAs may request employment and wage information during a specific period as a way to audit the UC charges. The audit is conducted under the BPC Program to ensure that the SESA is paying UC benefits properly. Additionally, SESAs may request verification of wages if there is reason to believe the employee claimed UC benefits while employed. If an employee is found to have deliberately falsified wage information to obtain UC benefits, he or she can be held ineligible to receive further benefits and subject to penalties pursuant to Section 1919 of Title 18, United States Code.

(2) **Completion.** The State BPC form requests whether the employee performed work during a particular week(s) and must be completed by the human resources specialist. If the employee performed work, the human resources specialist must indicate the work dates on the form, as well as the gross wages earned during the week(s) specified. Additionally, the human resources specialist must indicate any other payments that were made during the week(s), such as leave or retirement pay. The form may request verification of employment information, such as the first and last date worked and the reason for separation. The human resources specialist who completes the form must sign and date the form and return it to the SESA in accordance with the instructions on the form.

d. Quality Control (QC) Program. SESAs conduct random samples of UC payments in accordance with the SESA's QC Program. The QC Program's sampling procedures are designed to produce samples that represent all of the UC claims paid by the SESA. Each of the samples represents one paid week of UC benefits, known as the "key week."

(1) **Description and Purpose.** The SESA QC form is used to verify whether the DoD Component accurately reported and the SESA accurately recorded the wages used to establish monetary eligibility for a particular UC. The QC audit verifies if the employment information is reported accurately.

(2) **Completion.** The QC form always consists of three main sections, though the physical layout of the form varies from State to State.

(a) The SESA completes the first section, which contains identifying information for the employee, including the employee's name and social security number. That section also includes the name and address of the DoD Component.

(b) The human resources specialist should complete the second and third sections of the form. The second section requests employment information for the individual; the third section requests payroll information for the base period. The human resources specialist should provide the gross wages for each quarter specified.

(c) The human resources specialist who completes the form must sign and date the form. By signing the form, the human resources specialist is certifying that the information is true and correct to the best of his or her knowledge.

e. Additional Wages to Qualify for a Second Benefit Year. Before establishing a consecutive benefit year, a SESA may request wage information to determine if an employee has performed subsequent employment and earned wages. This ensures that individuals do not qualify for successive UC claims based on the same period of employment.

3.4 REQUIRED NOTICES FOR DOD COMPONENTS.

a. Security Cases. According to Section 8(a) of Chapter VI of the DOL Handbook, the UC human resources specialist should notify the applicable SESA of any employee who has filed a claim for UC benefits and was separated in the interest of national security pursuant to Section 7532 of Title 5, United States Code. The human resources specialist should provide a copy of the final decision letter to the SESA.

b. Back Pay Awards.

(1) **DoD Responsibility.** According to the DOL Handbook, when a back-pay award is made to an employee, the human resources specialist should verify whether the individual has filed a claim for UC benefits in the last 52 weeks. If the human resources specialist determines the individual has filed a UC claim, the human resources should notify the applicable SESA of the individual's name, social security number, amount of the back pay award, and period covered by the award. If a human resources specialist receives an ES Form 931 claim form for an individual who has previously received a back pay award, the human resources specialist should include the amount of the back-pay award with the wages that are reported to the SESA on the ES Form 931.

(2) **SESA Determinations.** Once a human resources specialist informs the SESA of a back-pay award, the SESA will review the claim and determine what effect, if any, the back pay award will have on the base period wages. If any or all of the back pay award falls in the base period of the UC claim, the SESA may request a corrected report of wages, including the back pay award. The SESA then will reissue a determination indicating the amount of UC benefits the employee is eligible to receive. The SESA will determine if the back pay award covered any period for which the employee claimed or was paid UC benefits; if the back pay award did cover such a period, the employee may have been overpaid UC benefits. The overpayment will be handled by the SESA, in accordance with its UC law, in one of two ways:

(a) In the first situation, the SESA may require the employee to repay the UC benefits received during the period covered by the back-pay award. Therefore, the employer should not deduct the amount of UC benefits paid during the period covered by the back pay

award from the back-pay award, in accordance with decision number 63 of the Decisions of the Comptroller General (Comp Gen) 99. Instead, the SESA will set up the overpayment on the employee's UC claim and require the employee to repay the overpayment. Once the overpayment amount is recovered from the employee, the SESA will credit the DoD Component's Federal Employees Compensation (FEC) account. It may take several quarters before the credit is completely received by the DoD Component, dependent upon when the employee repays the amount.

(b) The second situation requires the employer (including DoD Components) to reimburse the State for overpaid UC benefits. In these cases, the payroll specialist should deduct the amount paid in UC benefits from the back pay award, in accordance with decision number 65 of Comp Gen 865. The human resources specialist is responsible for providing the SESA with information on the amount and period of the back pay award. The SESA then provides the DoD Component with information on the amount of and time period during which the employee received the UC benefits. Once the payroll specialist recovers the overpaid amount, he or she should send the recovered amount through DFAS to the FEC account of the Department of the Treasury to obtain a credit from the SESA, which will be reflected in the agency's FEC account in a future quarter. The DOL's Comparison of State Unemployment Laws illustrates how each State handles overpayments due to back pay awards under State law. The human resources specialist should consult that document before taking any action on a back pay award.

c. Terminal Leave Payments to Employees Terminating and Non-pay Status. The human resources specialist must determine if an employee who is in non-pay status or who is employed less than full-time (e.g., an intermittent employee) and who terminates his or her employment and is paid terminal annual leave has filed a claim for UC benefits. If so, the human resources specialist should notify the applicable SESA of the employee's name and social security number, the amount of the terminal leave paid, the date on which the payment was made, the number of days and hours that were paid, and the hourly rate of pay used in computing the payment. Upon receipt, the SESA may request that the DoD Component correct the wages listed on the ES Form 931.

d. Refusal of Employment Offer.

(1) **Offer or Referral of Work.** If an employee who has filed a claim for UC benefits refuses an offer or referral of suitable work, the human resources specialist must notify the applicable SESA. The refusal must pertain to a specific offer for a specific position presented to the employee. That notice of refusal must include the employee's name, social security number, and specific information about the offer of work.

(a) If possible, the human resources specialist should provide the SESA with written copies of the offer and the refusal. The notice should include the job duties of the position, the hourly salary, the hours of work, and the employee's reason for refusing the work. The human resources specialist must provide information to the SESA about the type of job, salary, and duty hours for the position the employee previously held.

(b) If an employee refuses an offer or referral of work but has not filed a claim for UC benefits, the human resources specialist should retain the refusal information and return it with the ES Form 931 if the employee files a claim for UC benefits in the future.

(2) **Suitable Work.** The SESA will determine whether the work offered or referred to an employee was suitable. To determine whether a job was suitable, the SESA compares the working standards of the job to State and federal standards and to the prevailing standards for the job in the local labor market. The SESA reviews the experience and training of the employee. The SESA will not find a job suitable if the wages, hours, or other conditions of employment are substantially less favorable than the prevailing conditions in the local labor market.

(3) **Good Cause for Refusing.** If the SESA determines the job offer or referral was suitable, the SESA must then determine if the individual had good cause to refuse the work. The SESA will take into consideration the reason(s) the individual refused the offer, such as problems with the wages, hours, or location of the job. The SESA will consider the employee's length of unemployment and the availability of other work in the labor market.

e. Final Settlement of an Appealed Personnel Action. When the human resources specialist receives the final decision on the appeal of a personnel action, he or she should send a copy to the appropriate SESA only if the decision changes the separation information reported by the agency on the ES Form 931 or ES Form 931A, "Request for Separation Information for Additional UCFE Claim."

f. Information on Claims Filed Pursuant to the Federal Employees' Compensation Act. Certain SESAs disqualify individuals from receiving UC benefits if they simultaneously receive workers' compensation benefits. Other SESAs deduct the amount of the workers' compensation payment from the UC benefit amount. Therefore, the human resources specialist must notify the SESA via the "Reason for Separation" section of the ES Form 931 or ES Form 931A if an employee has filed a claim for UC benefits covering the same period as his or her claim for workers' compensation benefits. If the human resources specialist has already returned the ES Form 931 or ES Form 931A to the SESA, he or she should send a separate notice to the SESA. DIUCS provides a report if a UC claim is created for an employee who has previously filed a workers' compensation claim.

3.5 NOTICES AND DETERMINATIONS. Once the SESA gathers the wage and separation information for an employee, it will issue determinations concerning individual eligibility for UC benefits. Paragraphs 3.5.a. through 3.5.c. describe these determinations.

a. Notice of Financial Determination. The SESA issues a notice of financial determination, also known as a "monetary determination." The purpose of the notice is to inform the employee and the employer of the amount the employee will be eligible to receive in UC benefits. Generally, the form includes the weekly benefit amount and the maximum benefit amount; in certain cases, the wages reported by the employer also will be included. The human resources specialist should compare these wages with the wages reported on the ES Form 931 to ensure they match; if the agency disagrees with the wages listed on the monetary determination,

the human resources specialist may appeal to the first-level appeal authority of the SESA. Procedures for filing an appeal are included on the notice.

b. Notice of Benefit Charges. Some SESAs send a notice that indicates the amount of wages paid by each employer in the base period. Though the title of the form and format will vary from State to State, each form shows the proportion of the total wages that each employer will be charged based on the amount of wages attributed to that employer. Since DoD Components are required to reimburse the FEC account for their proportionate share of the total wages, the human resources specialist should notify the SESA if there are any other known sources of wages that are not reflected on the notice of benefit charges.

c. Notice of Nonmonetary Determination. The SESA issues a nonmonetary determination when a decision is made about any aspect of the employee's eligibility for benefits other than monetary considerations.

(1) **Reason for Separation.** In most cases, the SESA will issue a determination only if the reason for separation was other than a lack of work. The determination will provide the reason the employee was separated, whether the reason results in a disqualification or a qualification for UC benefits, the section of the State UC law that pertains to the issue, and the terms of the disqualification, if any. Depending on the reason for separation and the particular State UC law, an individual may be held ineligible for UC benefits for a specified number of weeks, or disqualified until the employee performs subsequent work for a specified period of time or earns a specified amount of wages. The human resources specialist should review carefully all nonmonetary determinations received. If the agency disagrees with a determination, the human resources specialist should file an appeal. The determination will indicate how, where, and when an appeal can be filed.

(2) **Availability for Work.** The SESA may issue a determination that the individual is unable to accept work, is unavailable for work, or is not seeking work. That determination should only be appealed if the human resources specialist has conflicting information on the employee's availability for work (e.g., the human resources specialist knows that the individual is attending school or is temporarily unable to work due to illness).

(3) **Refusal of Suitable Work.** A SESA may issue a determination if an individual refused an offer of suitable work or referral to work. The determination will provide information about the job offer that was refused and indicate whether any penalty has been imposed, as well as the specifics of the penalty. In certain cases, the employee will be held ineligible for the period of time the job was to last; in other cases, an employee may be held ineligible until subsequent employment is performed for a specified time period.

(4) **Receipt of Wages, Pension, or Other Payment.** States may issue decisions regarding nonmonetary determinations when an individual is found ineligible to receive UC benefits for a particular time period due to receipt of wages, pension, severance, or leave pay.

3.6. FIRST-LEVEL APPEALS AND HEARINGS. Most SESAs have two levels of administrative hearings, a first-level appeal and a second-level appeal. This section describes the notices and determinations associated with the appeals process, including how first level

hearings are conducted and the steps necessary to adequately prepare for and participate in the appeals process. The applicable State law will govern appeals and hearings; only general procedures common to all jurisdictions are presented herein to serve as a guide. Specific rules may vary by State; therefore, the applicable rules for each particular State must be followed.

a. Appeals from Determinations.

(1) **Interested Party Status.** Generally, any interested party to a determination (monetary or nonmonetary) can file an appeal of a determination if the party disagrees with the decision or the decision does not accurately reflect the facts. The interested parties to a determination are usually the employee and the last employer for whom the employee worked. However, it is important to note that either party can lose their interested party status if they fail to return notices or UC claims forms in the time specified by the SESA. Therefore, it is important for the human resources specialist to review all forms and notices he or she receives and to respond within the required time period to maintain an agency's interested party status. Failure to do so may result in waiving the agency's appeal rights.

(2) **Filing an Appeal.** Once the human resources specialist receives a determination, he or she must review it to decide if an appeal is warranted. If a decision is made to appeal the determination, the human resources specialist should follow the instructions provided on the determination to initiate the appeal. In most cases, the human resources specialist can file the appeal by mail rather than in person. It is advisable for the human resources specialist to confer with legal counsel when considering any appeal.

(a) **Time Limits for Filing an Appeal.** The requirements for the timely filing of an appeal must be carefully reviewed because they vary from State to State. In some jurisdictions, SESAs require an appeal to be received by a certain date; in others, the appeal must be postmarked by a certain date. If there is not enough time to mail the appeal, the SESA must be contacted to see if the appeal can be sent via fax or other electronic means.

(b) **Late Appeals.** If an appeal is not filed in a timely manner, the hearing official will determine if the party had good cause for submitting the appeal late. SESAs do not consider "too busy with other work" a good cause for an untimely appeal. However, if the agency received the determination too late to file a timely appeal due to an error by the SESA (e.g., sending the determination to the wrong address) that information should be included in the request for an appeal. The SESA may consider that explanation as good cause if the State had previously been advised of the correct address for the agency, as indicated on the SF-8 or on the response to the ES Form 931. If an appeal is determined to have been filed in an untimely manner without good cause, the hearing official may dismiss the appeal, in which case he or she will accept no testimony or evidence on the reason for separation.

(c) **Acknowledgment of an Appeal.** Upon receipt of a request for an appeal from the employee or the employer, the SESA may send a notice to both the employee and the employer, which will indicate which party filed the appeal and the date the appeal was filed. That notice will inform both parties that an appeal hearing will be scheduled and that another notice will be sent advising both parties of the date, time, and location of the hearing.

b. Notice of Hearing.

(1) **Hearing Location.** Once the SESA schedules an appeal hearing, a notice of hearing will indicate the date, time, and location of the hearing as well as whether the hearing will take place via telephone or in person. The human resources specialist should follow all directions in the notice carefully. If the hearing is scheduled by telephone, the human resources specialist may need to provide the appeals office with the names and telephone numbers of witnesses who will participate in the hearing. The notice will specify the procedures for presenting witness testimony and any documentary evidence the human resources specialist wants the hearing official to consider.

(2) **Requesting a Postponement.** The notice of hearing will indicate how to request a postponement of the hearing if the individual with firsthand knowledge of the situation is not able to attend the hearing, though such a postponement is not automatic. If a postponement is necessary, the human resources specialist should request a postponement to the appeals office as soon as possible. Until a postponement is granted, it should be assumed the hearing will be held as scheduled, and the human resources specialist should continue his or her preparations.

c. Preparation for a First-Level Appeal Hearing.

(1) **Beginning Preparation.** The human resources specialist should not wait until receiving the notice of hearing to begin preparing for an appeal hearing. In some cases, the notice may not arrive until a few days before the hearing is scheduled, which may not allow enough time to contact witnesses or prepare documents for submission as exhibits. Preparation for an appeal hearing should begin when the agency decides to file an appeal or when the human resources specialist receives a notice of appeal indicating the employee has filed an appeal.

(2) **Determining Witnesses for the Hearing.** Agency witnesses who attend a UC appeal hearing must have firsthand knowledge of the events surrounding the situation under appeal. Only testimony based on firsthand knowledge may be presented; the hearing official will not accept evidence that is considered hearsay.

(a) If the issue under appeal involves wages (i.e., how much an employee was paid and when), the individual with firsthand knowledge likely would be the payroll or time and attendance representative.

(b) In situations involving a resignation, the first-line supervisor or the servicing human resources specialist generally would possess the most knowledge of the reasons given by the employee for resigning.

(c) In situations involving a discharge, the first-line supervisor and, if different, the proposing official, usually will be needed to provide testimony if they had firsthand knowledge of the events that resulted in the discharge.

(3) **Preparation of the Witnesses.** Once witnesses are identified, the human resources specialist must ensure the witnesses will be available to attend the hearing. If any witness is not available to attend the hearing, the human resources specialist should request a postponement, as described in Paragraph 3.6.b.(2).

(a) **Designating an Employer Representative.** Many of the SESAs allow both the employer and the employee to have a representative at the appeal hearing, though the human resources specialist should verify this with the particular SESA beforehand. The human resources specialist should seek guidance from the appropriate Component legal office to determine whether the representative should be an attorney. The person designated as the employer representative should be familiar with the issue under appeal. The human resources specialist should notify the SESA before the hearing of the name, title, and phone number of the employer representative and of the other witnesses. Even if an attorney representative is not required, the human resources specialist should contact the appropriate DoD Component legal office for advice and assistance at all stages of this process.

(b) **Duties of the Representative.** An employer representative may direct the testimony of the employer's witnesses, cross-examine the employee and the employee's witnesses, and offer documents as exhibits during the appeal hearing. The representative generally is allowed to be present during the entire hearing process, while other witnesses may be sequestered by the hearing official.

1. If an employer representative is not designated, the hearing official generally will assist both parties in posing questions to the opposing party.

2. In some jurisdictions, if the employer representative has firsthand knowledge of the situation under appeal, the employer representative can serve as a witness and present testimony. In some cases, besides being the only witness, that individual may be the employer representative, provide all the testimony for the employer, and cross-examine the employee.

(c) **Initial Preparation.** The employer representative for the appeal hearing should meet with the other employer witnesses before the hearing. During the meeting, the representative and witnesses should determine the testimony each witness will provide during the hearing. Additionally, the representative and witnesses should determine which documents they will offer as exhibits during the hearing.

(4) **Preparation of Exhibits.** The issue under appeal will determine which documents to offer as exhibits. The employer representative must ensure that all witnesses who will testify about information contained in a document have ample opportunity to review the document before the hearing. Examples of various situations and the documents typically required to establish proof include:

(a) **Voluntary Resignation Situations.** Most SESAs presume the resignation to be voluntary, and place the burden of proof on the employee to show otherwise. However, certain SESAs (e.g., the District of Columbia) do not presume a resignation to be voluntary, and place the burden of proof on the employer to show otherwise. In those cases, employer representatives should submit an SF-52, "Request for Personnel Action," as evidence rather than the SF-50, because a resigning employee should have signed and annotated the SF-52 with a reason for resigning. The employer representative should enter any resignation letter submitted by the employee as an exhibit during the hearing. Additionally, if the employee resigned because he or she was not satisfied with the conditions of employment, documents such as the position

description or vacancy announcement that indicate the conditions of employment should be submitted by the employer representative as evidence of the conditions of employment.

(b) **Voluntary Separation Incentive Payment (VSIP) Separation.** The DoD considers employees who resign or retire to accept a VSIP to have left voluntarily. Some of the SESAs have granted UC benefits to employees who separated for that reason. The DCPAS ICUC Branch recommends that the human resources specialist file a timely appeal of decisions that qualify employees who separated to accept a VSIP. The employer representative should submit the VSIP notice indicating the voluntary nature of the program and the application for the VSIP signed by the employee as exhibits for the appeal hearing.

(c) **Discharge Situations.** In discharge situations, the burden of proof is on the employer to show by a preponderance of the evidence, as that phase is defined by the respective SESAs, that the employee was discharged for misconduct connected with the work. Therefore, any documents that support a finding of misconduct should be offered as evidence by the employer representative, including the notice of proposed removal, the decision of removal, and any oral or written warnings, letters of reprimand, and/or a proposal and notice of suspension if applicable.

1. The employer representative will submit as evidence any records such as time sheets, payroll records, or sign-in sheets for employees who are discharged due to being absent without leave. Any documentation that provides information about the office policy on attendance — including the standards of conduct, employee handbook, or copies of memoranda from the supervisor specifying office policy — should also be submitted.

2. In situations involving a falsification of records, the employer representative will enter as exhibits the falsified documents or reports. For example, when an employee is discharged based on falsification of information on his employment application, the employer representative should submit a copy of that application as evidence for the hearing. Additionally, the employer representative should submit as evidence any documents that notified the employee that he or she could be discharged for falsifying applications or reports. This could include a table of offenses and penalties or standards of conduct.

3. If an employee is discharged due to unsatisfactory performance, he or she usually will be eligible for UC benefits. The SESAs will not disqualify an individual from UC benefits based on unsatisfactory performance unless they can prove that the unsatisfactory performance was due to misconduct.

(5) **Submission of Exhibits.** Any employer witnesses, and the employer representative, shall be provided a copy of the exhibits and be familiar with the contents of the exhibits and the order in which the documents will be entered as evidence into the appeal hearing.

(a) **In-Person Hearings.** The employer representative must bring at least two extra copies of the documents to the hearing, one for the hearing official and one for the employee or his or her representative. Neither of those copies will be returned.

(b) **Telephonic Hearings.** For telephonic hearings, the employer representative should send the documents to the hearing official when the appeal is filed or, if the claimant

appealed, when the notice of appeal is received. The hearing official must receive the documents before the date of the hearing. The employer representative must send a copy of the documents to the employee before the hearing date. The hearing official can refuse to accept documents if copies have not been provided to the opposing party.

d. General Hearing Procedures. The hearing official is responsible for conducting the first-level, informal appeal hearing and issuing a determination based on the testimony and evidence presented during the hearing. At the outset of the hearing, he or she informs both parties of the procedures that will take place.

(1) **Initial Procedures.** Generally, the hearing official begins the hearing by calling both parties into the hearing room. If there are several witnesses, the hearing official may bring only the representatives and main witnesses for both parties into the hearing room to begin the hearing, and call the other witnesses into the hearing room only when it is their turn to provide testimony. Once both parties are present, the hearing official may explain the procedures of the hearing. The way the hearing is conducted will vary slightly depending on the hearing official, though major procedures are consistent in all SESAs. The hearing will be recorded, and any person who provides testimony will be placed under oath. In most cases, the party that has the burden of proof gives that party's evidence first (e.g., the employee would go first in a voluntary resignation situation). However, some hearing officials may direct the appealing party to provide testimony first.

(a) The hearing official will set up a conference call before a telephonic hearing. It is imperative that the employer representative provide the phone numbers for the witnesses to the appeals office before the start of the hearing. Some of the SESAs require the phone numbers to be provided the day before the hearing, so the employer representative must read the hearing notice carefully. If there is more than one witness, the hearing official may keep the other witnesses on hold until it is time for them to present their testimony.

(b) If an employer representative has been designated, he or she is responsible for answering questions from the hearing official about the procedures of the hearing. The other witnesses should not speak during the hearing except as directed to provide testimony, to answer questions directed to them by the hearing official, or to respond to questions under cross-examination by the opposing party.

(c) Once the witnesses have been placed under oath, the hearing official will ask both parties questions about the issue under appeal. The hearing official cannot take testimony on an issue unless both parties have identified and agreed to the issue before the beginning of the hearing. For example, if an employee resigned but then indicated during the hearing he actually was discharged, the hearing official may decide the separation must be considered a discharge rather than a voluntary resignation; the issue then will be included in the hearing, if both parties agree to it. If the parties do not agree, the hearing will be rescheduled and the new issue identified on the notice of hearing. To prevent this from happening, most SESAs identify both voluntary resignation and discharge as possible issues on the initial notice of hearing.

(d) The hearing official must verify personnel data from both of the parties. Such data generally includes the employee's title, rate of pay, date the employee started work (date of

accession), last date the employee performed work, date of separation, and whether the employee performed full-time or part-time work. The first witness for the employer is usually asked to provide that information. The employer representative, if designated, should inform the first witness that he or she must have that information readily accessible during the hearing.

(e) The hearing official generally begins the testimony by asking the witness questions on the issue under appeal. If an employer representative has been designated, the representative then may ask the witness additional questions. The hearing official will issue a decision on the issue based on the weight of the evidence. Written documentation should corroborate oral testimony (e.g., if the witness is explaining the reason an employee was discharged, the witness should also refer to the proposal and decision to remove). Those documents should not be read word-for-word into the record; instead they should be used to strengthen the oral testimony. Once the representative is finished asking the witness questions, the opposing party may cross-examine the witness. After cross-examination, the hearing official may have additional questions for the witness. If necessary, the representative will have an opportunity to ask rebuttal questions. That procedure is followed for each of the witnesses providing testimony for both parties. The hearing official may ask additional questions of either party at any time during the hearing.

(2) **Closing Procedures.** Once the testimony and cross-examination are completed, the hearing official will ask for closing statements. The employer representative or main witness can provide a closing argument for the employer summarizing the main points of the employer's case and indicating why the employer believes the individual should not receive UC benefits. New testimony may not be presented during the closing argument, nor may the representative comment about evidence that has not been presented at the hearing. Once the closing arguments are completed, the hearing official will conclude the hearing. The hearing official will not provide a decision immediately after the hearing; instead, both parties will receive a written decision through the mail.

e. Hearing Official's Decision.

(1) **Description and Purpose.** The hearing official's decision includes the first-level hearing official's findings of fact, his or her reasoning, and a decision about the determination at issue. The name of the hearing official's notice will differ from State to State.

(a) The findings of fact generally provide a summary of the main points made by both parties during the appeal hearing.

(b) The reasons supporting the hearing official's conclusions regarding the particular State's UC law.

(c) The decision will indicate whether the employee is qualified for or disqualified from receiving UC benefits and if there are any stipulations related to a disqualification (e.g., the employee is ineligible from receiving UC benefits for a certain number of weeks or until the employee performs work and earns a specified amount of money).

(2) **Identifying Information.** The decision will provide identifying information, such as the employee's name, social security number, and, in some cases, the appeal docket number.

The decision will identify any issue that was under appeal and the applicable section of the State UC law that pertains to them. In most cases, the notice will indicate which party filed the appeal, the date the appeal of filing, and the date of the hearing.

(3) **Additional Appeal Rights.** The appeal decision will specify the additional appeal rights available to both parties.

3.7. SECOND-LEVEL APPEALS.

a. If the human resources specialist decides to file an appeal to the second level, he or she must follow the appeal procedures to ensure that the appeal will be filed timely and meet all requirements. In most cases, the human resources specialist can send a letter to the second-level appeals office requesting a second-level appeal, (e.g., a “commission appeal” or an “appeal to the Board of Review”).

(1) Generally, an additional hearing will not be scheduled for a second-level appeal unless the appeal is based on discovery of additional evidence that was not available at the first-level hearing. The appeals board will not schedule another hearing to accept evidence that either party could have discovered through due diligence at the first-level hearing stage.

(2) If an additional hearing is not scheduled, the appeals board may accept written or oral argument concerning testimony and evidence submitted at the first-level appeal hearing. The written or oral argument cannot provide any new testimony or evidence.

(3) If a second-level hearing is scheduled, the hearing is usually held in person at the central office of the SESA.

b. The second-level appeal usually consists of a review by a panel of three special examiners of the testimony and evidence presented at the first-level appeal hearing. The panel also will review the oral or written argument, if presented, and the additional testimony or evidence, if accepted. Once the panel reviews all the information, the panel will issue a new decision indicating the applicable statute, and its findings and conclusions. The panel can uphold, reverse, or modify the first-level decision.

3.8. JUDICIAL REVIEW. If the agency disagrees with the second-level decision (or the first-level in those States that have only one administrative hearing), it may file an appeal with the appropriate State court for judicial review. The time limit for filing an appeal ranges from 10 days to 6 months; therefore, the agency must review the appeal instructions on the second-level decision carefully to ensure that the appeal is filed timely. Additionally, the second-level decision will indicate the court with appropriate jurisdiction (e.g., the Circuit Court, District Court, Superior Court, or other court, depending on the particular State). An attorney from the Department of Justice must represent the agency in any court proceeding.

3.9. BILLING OF UC CHARGES.

a. SESA Responsibilities. SESAs must pay UC benefits to former federal employees. The DOL either advances or reimburses SESAs for those UCFE benefits after receiving a list of total UCFE payments attributable to each DoD Component, compiled and forwarded by the SESAs. This quarterly statement of charges is known as the Employment and Training Administration 191 Report. The information sent by SESAs on the Employment and Training Administration 191 reflects the total charge for each DoD Component. It does not include specific information, such as the names, social security numbers, or amount of charges for each individual. SESAs, upon request of the DoD Component, will send a list of the specific charge information, known as the “detailed benefit of charges” or “State detail,” to the DOL. The quarterly detail of charges includes the name, social security number, and charge for each individual who was paid UCFE benefits attributable to that FIC.

b. DOL Responsibilities. Once the DOL receives the charges from the various SESAs, it compiles all of the charges and, approximately 2 months after the end of a quarter, sends DoD a bill that lists costs separately by State. The bill is known as the “Statement of Expenditures of Federal Funds for Reimbursable UC Benefits Paid to UCFE Claimants.” The DOL also certifies to the Department of the Treasury on a quarterly basis the amounts due from each DoD Component.

c. DoD Responsibilities.

(1) **DoD Component Budget Offices.** DoD Components have 30 days from the date the DOL sends the bill to submit a payment for the UCFE charges. The budget offices of the DoD Components are responsible for advising the DFAS to issue the payment to the Treasury FEC account. DoD Component budget offices must pay the total amount of charges indicated on the quarterly bill from the DOL. If an error is found in the amount charged, the human resources specialist must bring the error to the attention of the DCPAS ICUC Branch, who will then notify the SESA of the discrepancy. Additionally, the DoD Components must pay all bills each quarter. In certain cases, the DOL may make adjustments and send initial, supplemental, and final bills to a DoD Component for a particular quarter.

(2) **DCPAS ICUC Branch.** The DCPAS ICUC Branch is responsible for auditing the UC charges. As a result, the DCPAS ICUC Branch has requested that SESAs submit the quarterly details of UCFE charges for DoD Components directly to the DCPAS ICUC Branch. As the ICUC staff receives the details, they input the charges from the details into DIUCS. While the charges are entered into the system, the ICUC staff ensures that the SESA has charged the correct DoD Component. If a DoD Component has been charged incorrectly, the DCPAS ICUC Branch asks the SESA to charge the correct DoD Component and credit the DoD Component that was incorrectly charged. The DCPAS ICUC Branch also takes action to obtain credits from the SESAs for erroneous charges, such as those for individuals who cannot be identified as former DoD employees.

(3) **DFAS.** DFAS is responsible for obtaining the quarterly UC charge payment from the DoD Components and issuing all payments to the DOL. The payment is made to the

Unemployment Trust Fund, which is administered by the Department of the Treasury. The Treasury then notifies the DOL of the amount that each DoD Component paid.

3.10. ADDITIONAL UCFE CLAIMS FORMS.

a. ES Form 931A, “Request for Separation Information for Additional Claim-UCFE”

(1) **Description and Purpose.** The SESA sends the ES Form 931A to the human resources specialist to request separation or non-pay status information for an individual who has established a UC claim for benefits. Any time an individual performs subsequent employment and reopens his or her UCFE claim during the benefit year, the SESA uses an ES Form 931A. The ES Form 931A consists of local office and claim information and has three main sections.

(a) **Local Office and Claim Information.** The ES Form 931A contains the local office number, a contact person name and telephone number, the filing date of the additional claim, and the date the ES Form 931A was requested.

(b) **Section I.** Section I of the ES Form 931A contains identification data, such as the employee’s name, social security number, date of birth, position title, place of employment, separation date, whether the address used by the SESA is based on an SF-8, and full-time or part-time employee status.

(c) **Section II.** Section II requests information on whether the individual performed federal civilian service, whether terminal annual leave or a severance payment was or will be issued, and the separation or non-pay status information. Section II also includes a certification section and the address and FIC code for the DoD Component.

1. Part 1 of Section II of the ES Form 931, question 1(a) asks whether the individual performed federal civilian service. If the human resources specialist answers “yes” to the question, nothing further is required. If the human resources specialist answers “no,” he or she must provide an explanation. The explanation for that question should follow the guidelines specified for the ES Form 931 in Paragraph 3.2.b.(3).

2. Part 2 asks the DoD Component to verify that the identification information, including the name and social security number for the employee, is correct. If the information is not correct, the human resources specialist should provide the correct information in this space.

3. Part 3 of Section II does not ask for wage information as the ES Form 931 does, since the UC claim has been established previously. Instead, Part 3 requests information about whether a terminal annual leave payment was paid, the date of the payment, the days of leave paid, the amount of the payment, the number of hours of leave, and the beginning and ending dates of the annual leave. Part 3 also requests:

a. Separation information, including the date of separation, the last date of active pay, and the reason for separation.

b. Severance pay information, including the total amount of severance payable, the weekly entitlement, the number of weeks paid, and the beginning and ending dates of the severance payment.

4. The agency representative who completes the ES Form 931A must sign and date the form and provide his or her title and telephone number. By signing the ES Form 931A, the agency representative certifies that the information is correct and complete to the best of his or her knowledge.

(d) **Section III.** Section III provides the DoD Component name, address, and FIC account number to which the SESA sent the ES Form 931A.

(2) **Requirements.** The ES Form 931A follows the same requirements specified for the ES Form 931 in Paragraph 3.2.b. (e.g., returning two signed copies of the ES Form 931A within 4 workdays of receipt and retaining a copy of the completed ES Form 931A for 1 year).

(3) **Completion.** The human resources specialist should complete Section II of the ES Form 931A.

b. ES Form 933, “Request for Information Regarding Claims Filed Under the Federal Employees’ Compensation Act”.

(1) **Description and Purpose.** The SESA sends the ES Form 933 to the Office of Workers’ Compensation Programs (OWCP) of the DOL to request information about whether an individual who has filed a claim for UC benefits also has filed a claim for workers’ compensation benefits.

(2) **Completion.** The OWCP, rather than the DoD Component, completes the ES Form 933. If a DoD Component receives a form in error, the agency’s human resources specialist should forward it to the OWCP district office.

c. ES Form 934, “Request for Additional Information or Reconsideration of Federal Findings – UCFE”.

(1) **Description and Purpose.** The SESA sends the ES Form 934 to a DoD Component to request additional information when the information provided by the DoD Component on the ES Form 931 or ES Form 931A is insufficient. The SESA may send the ES Form 934 at the employee’s request to obtain additional information from the DoD Component or to request a reconsideration of the federal findings. The ES Form 934 consists of three main sections.

(a) **Section I.** The SESA representative completes Section I which consists of identification data, including the employee’s name, social security number, date of birth, position title, place of employment, DoD Component name and address, FIC number, original request date of the ES Form 931 or ES Form 931A, and the employee’s full- or part-time status.

(b) **Section II.** The SESA representative completes Section II, which contains the information to be verified, the supporting documents submitted by the employee, if any, and the signature of the SESA representative.

(c) **Section III.** Section III consists of the DoD Component’s reply to the request for information and the certification of the individual completing this form.

(2) **Requirements.** The ES Form 934 requires the same reporting and retention requirements as the ES Form 931, as specified in Paragraph 3.2.b.. The DoD Component returns the ES Form 934 within 4 workdays of receipt, since the SESA cannot issue a determination on the UC claim until the discrepancy in the findings is resolved.

(3) **Completion.** The human resources specialist must complete Section III of the ES Form 934. The response will depend on the information that the SESA is requesting in Section II of this form. The SESA may request that the DoD Component reconsider the initial findings if, for example, the employee disagrees with the wages reported on the ES Form 931 and submits documentation indicating the wages reported were incorrect. In that case, the human resources specialist should verify the wages reported on the ES Form 931 and report the correct wages on the ES Form 934.

(a) In certain cases, the SESA may ask the DoD Component to provide additional information. For example, if the reason for separation on the ES Form 931 indicated only “termination,” the SESA would need additional information to determine whether the termination was due to unsatisfactory performance or misconduct.

(b) The human resources specialist who completes the form must sign and date the form, and indicate his or her name, title, and the date the form was completed.

d. ES Form 935, “Claimant’s Affidavit of Federal Civilian Service, Wages, and Reason for Separation”.

(1) **Description and Purpose.** The employee completes the ES Form 935 during the initial UC claims process; the form acts as an affidavit of federal civilian service, wages, and the reason for separation. On occasion, the SESA submits the ES Form 935 with the ES Form 931 for an initial claim or with the ES Form 931A for an additional claim. In certain cases, the SESA will submit the ES Form 935 separately to the human resources specialist. If so, this form should be forwarded to the appropriate local SESA office.

(a) **Local Office, Claim, and Identifying Information.** The ES Form 935 indicates the local office number, contact person name and telephone number, and the employee’s name, social security number, and date of birth. The claim information section also indicates whether the claim is an initial claim or an additional claim, the effective date of the claim, and the dates of employment.

(b) **Section I.** Section I provides the base period wages, as estimated by the employee, and the documentary evidence (such as a W-2 form or leave and earnings statement) provided by the employee. The second part of this section indicates the employee’s estimation of any severance payments.

(c) **Section II.** In Section II, the employee indicates the reason for his or her separation from the position. The employee certifies that the information provided on the ES Form 935 is true and correct.

(2) **Requirements.** According to Section 6 of Chapter VI of the DOL Handbook, if the SESA does not receive a completed ES Form 931 within 12 workdays after sending the ES Form 931 to the DoD Component, the SESA will use the information on the ES Form 935 to issue any monetary or nonmonetary decisions. This means that the UC claim will be established without input from the DoD Component, reiterating the need for the human resources specialist to return the ES Form 931 within the prescribed time period.

(3) **Completion.** DoD Components are not required to complete any information on the ES Form 935. Instead, the human resources specialist should compare the ES Form 935 with the information provided on the ES Form 931. If the information on the two forms is different, the human resources specialist should send a rebuttal to the SESA. If the ES Form 931 has not been sent, sending it will serve as a rebuttal.

e. ES Form 936, “Request for Verification of UCFE Wage and Separation Information Furnished on Form ES-931”.

(1) **Description and Purpose.** The SESA sends the ES Form 936 to the DoD Component to verify that the DoD Component is completing the ES Form 931 forms accurately and to satisfy a request from the DOL that the SESAs periodically verify the accuracy of information furnished by DoD Components on the ES Form 931. The ES Form 936 provides the DoD Component with an opportunity to request technical assistance about the UCFE Program. The ES Form 936 is composed of the local office and claim information, as well as two main sections.

(a) **Local Office and Claim Information.** The local SESA office information contains the SESA representative name, phone number, and the local SESA office name and number. It also indicates the effective date of the new claim and the date the ES Form 931 was reviewed by the SESA.

(b) **Section I.** Section I contains identification data, including the employee’s name, social security number, birth date, position title, place of employment, separation date provided by the employee, DoD Component address, and FIC number.

(c) **Section II.** Section II consists of questions about the ES Form 931 and the DoD Component’s reply, including the certification information.

(2) **Requirements.** The ES Form 936 requires the same response and retention controls as the ES Form 931 (i.e., to return the completed form in 4 workdays of receipt and to maintain a copy of the completed form for 1 year from the date of certification). Since the ES Form 936 is meant to verify the information furnished on the ES Form 931, the individual who completes the ES Form 936 should **not** be the same individual who completed and certified the ES Form 931.

(3) **Completion.** The human resources specialist should complete Section II of the ES Form 936. To complete the ES Form 936, the human resources specialist must retrieve the agency copy of the ES Form 931 and the current payroll and separation information. Several of the questions on the ES Form 936 are “yes” or “no” questions and are self-explanatory.

(a) Section II Questions.

1. Question 1(a) of Section II asks whether the agency has payroll records for this employee. If the human resources specialist answers “no,” he or she must provide an explanation. Question 1(b) requests the employees’ wages for a period specified by the SESA. The human resources specialist should obtain the wages from the current payroll records rather than copy the wages from the ES Form 931. This ensures that the wages previously reported on the ES Form 931 remain accurate. In certain cases, adjustments may have been made to the wages since submission of the ES Form 931.

2. Question 2 asks if the agency has a copy of the ES Form 931. If the ES Form 931 cannot be located, the human resources specialist must indicate why on the ES Form 936. The human resources specialist should not create a new ES Form 931 in DIUCS.

3. Question 7 asks the human resources specialist if they are in receipt of instructions issued by his or her agency’s headquarters on the UCFE Program. The human resources specialist should answer “yes” to that question since this volume serves as the DoD instructions for the UCFE Program.

4. Question 8 asks if the human resources specialist found any errors in the ES Form 931. If there were errors, the human resources specialist should indicate this in the item titled “Remarks by Federal Agency.” The human resources specialist should include the corrected information, as well as the reason for the discrepancy (e.g., an adjustment to the wages).

(b) **Certification.** The next part of the form requires the individual who completed the ES Form 936 to sign and date the form, indicate his or her title, and provide the name and address of the DoD Component. The final part of that form asks if the DoD Component would like a representative of the SESA to arrange a visit to discuss the responsibilities of the UCFE Program. The human resources specialist should contact the DCPAS ICUC Branch before answering “yes” to that question.

f. ES Form 939, “UCFE Program – Federal Agency Visit Report”.

(1) **Description and Purpose.** DOL or SESA staff can complete the ES Form 939 after visiting a DoD Component to conduct a review or evaluation of the agency’s UC program. Both the DOL and the SESAs will visit DoD Components periodically to evaluate the UC operations. The SESA staff will conduct a review if requested by the DoD Component on the ES Form 936. Additionally, the SESAs may visit a DoD Component to obtain corrections in wage or separation information reported in specific cases and to familiarize DoD Component staff with UCFE Program requirements. The ES Form 939 contains questions about the DoD Component’s basic UC program responsibilities. The form consists of two main sections.

(a) **Section I, Identification Data.** Section I consists of the DoD Component name and address, the name and title of the SESA representative conducting the visit, the reason for the visit, and the names and titles of the persons contacted.

(b) **Section II, DoD Component Functions.** Section II consists of questions about the DoD Component's UCFE Program. The questions are divided into four main parts: general, administration, UCFE claims forms, and appeals and remarks.

(2) **Completion.** The DOL or the SESA completes the ES Form 939; DoD Components are not responsible for completing any part of the form. The DoD Component will receive a copy of the completed form. The human resources specialist must correct any errors noted on the report.

GLOSSARY

G.1. ACRONYMS.

ASD(M&RA)	Assistant Secretary of Defense for Manpower and Reserve Affairs
BPC	benefit payment control
CFR	Code of Federal Regulations
CPO/HRO	Civilian Personnel Office/Human Resources Office
Comp Gen	Decisions of the Comptroller General
DASD(CPP)	Deputy Assistant Secretary of Defense for Civilian Personnel
DCPAS	Policy Defense Civilian Personnel Advisory Service
DFAS	Defense Finance and Accounting Service
DIUCS	Defense Injury and Unemployment Compensation System
DOL	Department of Labor
DoDD	DoD Directive
ES	employment security
FEC	Federal Employees Compensation
FIC	Federal Identification Code
ICUC	Injury Compensation and Unemployment Compensation
NAF	non-appropriated fund
OPM	Office of Personnel Management
OWCP	Office of Workers' Compensation Programs
QC	quality control
SESA	State Employment Security Agency
SF	standard form
UC	unemployment compensation
UCFE	unemployment compensation for federal employees
VSIP	voluntary separation incentive payment

G.2. DEFINITIONS. Unless otherwise noted, these terms and their definitions are for the purposes of this issuance.

base period. The timeframe determined by a State under its applicable law for how much an individual will be eligible to receive in UC benefits. The base period is comprised of either 4 consecutive quarters or 52 weeks.

BPC. A process to protect the Unemployment Trust Fund by preventing, discouraging, detecting, investigating, and recovering unemployment insurance benefit overpayments.

claimant. An individual who has filed a claim for UC benefits.

CPO/HRO. The local operating personnel office.

DIUCS. The automated tracking system used by DoD personnel to manage and validate claims.

federal agency. Any department, agency, or governmental body of the United States, including any instrumentality wholly or partially owned by the United States in any branch of the government of the United States, that employs any individual in federal civilian service.

federal civilian service. Service performed in the employ of a federal agency, except service excluded by Part 609.2 of Title 20, CFR.

federal employee. An individual who has performed federal civilian service.

federal wages. All pay and allowances, in cash and in kind, for federal civilian service.

human resources specialist. The individual designated by the CPO/HRO to manage and maintain responsibility of the UCFE Program at the installation level.

lag quarter wages. The 2 quarters following the base period that are used to calculate the UC benefit amount for an individual.

QC program. A program initiated by the SESA used to verify whether the DoD Component accurately reported and the SESA accurately recorded the wages used to establish monetary eligibility for a particular unemployment claim. The QC audit also verifies if the employment information as reported accurately.

SESA. The State agency that administers the UCFE Program under the applicable State law, based on an agreement with the Secretary of Labor.

State law. Individual UC laws created by each State and approved by the Secretary of Labor.

UCFE Program. A program for unemployed federal civilian employees. The UCFE Program provides a weekly income for a limited period of time for qualified, unemployed federal civilian employees. UC is used interchangeably with UCFE. UCFE is administered by the DOL and the DOL issues rules and regulations for the UCFE Program.

VSIP. Pay authority that allows agencies that are downsizing or restructuring to offer employees a lump-sum payment as an incentive to voluntarily separate, when authorized by the OPM. Also known as “buyout authority.”

REFERENCES

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- Decisions of the Comptroller General, 63 Comp Gen 99, December 7, 1983
- Decisions of the Comptroller General, 65 Comp Gen 865, September 24, 1986
- Department of Labor, “Comparison of State Unemployment Laws,” current edition
- Department of Labor Handbook, “Unemployment Compensation for Federal Employees Instructions for Federal Agencies,” March 1995¹
- DoD 7000.14-R, Volumes 8 and 12, “Department of Defense Financial Management Regulations (FMRs),” current editions
- DoD Directive 1400.25, “DoD Civilian Personnel Management System,” November 25, 1996
- DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
- DoD Directive 5400.11, “DoD Privacy Program,” October 29, 2014
- DoD Manual 8910.01, Volume 1, “DoD Information Collections Manual: Procedures for DoD Internal Information Collections,” June 30, 2014, as amended
- Memorandum of Agreement between the Government of Canada and the Government of the United States of America Regarding Unemployment Insurance, 1942, as amended²
- United States Code, Title 5
- United States Code, Title 18

¹ Available at:

http://www.ows.doleta.gov/dmstree/handbooks/UCFE_inst_state/UCFE_inst_state_toc.htm?landiNavDLTEST=%7C3494%7C3629%7C3861%7C4349%7C

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