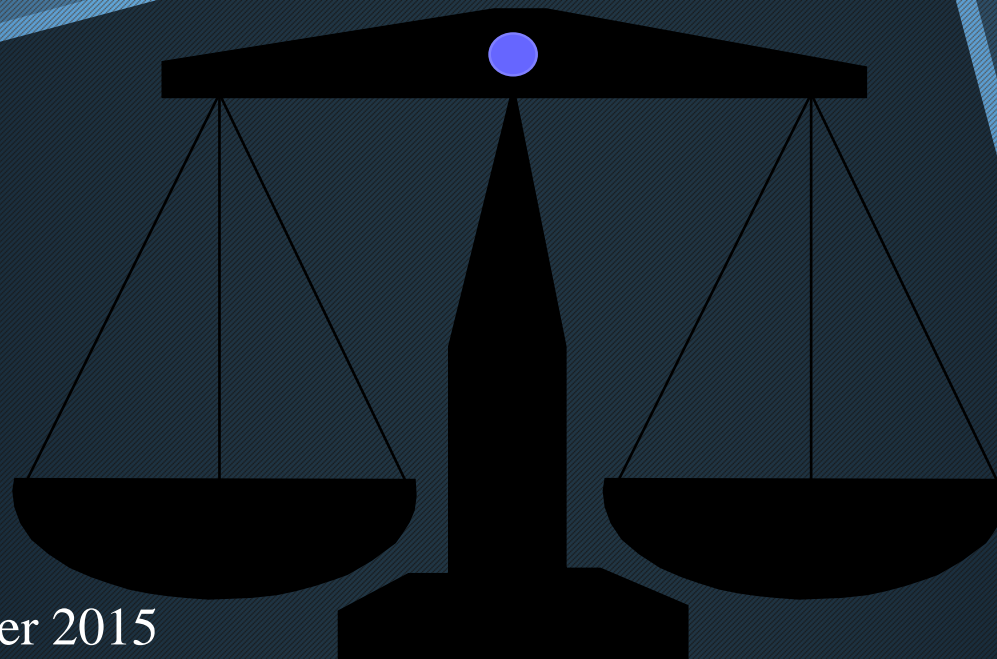




Department of
Workforce Services

Unemployment Insurance:

How to Reduce Employer Liability for Unemployment Insurance Claims



Updated November 2015



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Workforce Services

TOPICS

(Table of Contents)

Rules Governing Unemployment Insurance

What Employer Need to Know: Discharge vs Quit

eResponse

Hearings and Appeals



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Understanding the Rules Governing Unemployment Insurance Benefits

Utah Employment Security Act - Utah Code Section 35A-4-101
through 35A-4-508

State Administrative Rules - Utah Admin. Code R994-102
through R994-508

Unemployment Law and Rules - jobs.utah.gov/appeals





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What Employers Need to Know Discharge vs. Quit

**Claimants are denied
benefits when:**

**“Just cause” is shown for
discharges, and...**

**“Good cause” is not shown
when an employee quits**



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Knowledge

- Company / Employee Manuals
- Company Policy
- Operational Manuals
- Worker Instructions
- Standard Operating Procedures
- The Opposite of Knowledge
 - Condoning rule violations
 - Assuming the employee knows
 - Unclear instructions / expectations





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Culpability



Seriousness of conduct or severity of offense as it affects the continuance of employment

Questions to ask yourself...

- Impact
- Objectionable
- Isolated

Utah Appellate Courts & Culpability:

Gibson v. Dept. of Employment Sec., 840 P.2d 780 (Utah App. 1992).

Isolated Instance of Poor Judgment:

Bhatia v. Dept. of Employment Sec., 834 P.2d 574 (Utah App. 1992).



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Control

The Utah Supreme Court called for a liberal construction of the Utah Employment Security Act:

“Mere inefficiency or failure of good performance as the result of inability or incapacity, inadvertence, isolated instance of ordinary negligence, or good faith errors in judgment or decisions do not constitute culpable conduct which precludes a discharged employee from receiving unemployment compensation benefits.”



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Quit or Discharge?

Unemployment Insurance Benefits will be Denied if the Person Voluntarily Quits Without “Good Cause”



Employee gives two-week notice:

- Employer accepts and asks employee to leave that day
- Employer accepts and pays for two more weeks, but asks employee to leave that day



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Provide ALL Requested Information to DWS within time limits to avoid:

- Denial of relief of charges
- Overpayments
- Denial of appeal rights
- Appeal hearings





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eResponse

What is eResponse?

eResponse is an electronic means to respond to separation requests to help the department to accurately determine your benefit costs.



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eResponse continued

Benefits of using eResponse:

- Secure, electronic format in which you can respond to unemployment insurance (UI) separation requests
- You can attach documentation when needed, and receive a date-stamped confirmation of receipt
- Electronic format reduces follow-up calls, streamlines the response process and reduces paperwork
- Faster claim responses lead to more accurate initial eligibility decisions, which help keep employer benefit costs down



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eResponse continued

Needed Information:

- Federal Employer Identification Number (FEIN)
- State Employer Identification Number (SEIN)
- Personal Identification Number (PIN)

Access SIDES eResponse from:

- <https://jobs.utah.gov/ui/employer> or
- <http://uisides.org>



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eResponse continued

jobs.utah.gov/ui/employer and sign up for eResponse today. Click “File a Form 606 (eResponse)”

Unemployment Insurance and New Hire Reporting Hello. [Click here to sign in.](#)

Home [Tax](#) [Payments](#) [New Hire](#) [Claims](#) [Registration](#) [Correspondence](#) [Admin](#) [Info](#) [Live Chat](#)

System Message

- For instructions on filing your quarterly report online, please [click here](#).
- The latest Employer Advisor is available and includes information on online filing, new EFT features, and Unemployment Insurance fraud. Please [click here](#) to read it.

Tax Reporting

Jan 31 Current Filing Qtr: 2014 Q4
Due: **January 31, 2015**

Other Options

- View or amend past reports
- Get employer account PIN
- View tax forms
- View all tax reporting options

[File Tax Report](#)

New Hire Reporting

[File a New Hire Report](#)

Other Options

- View past new hire reports
- View all new hire options

[File New Hire Report](#)

Claims

[File a Form 606 \(eResponse\)](#)

[File a Wage Audit \(613\)](#)

Other Options

- View history of 613 responses
- View all claims options

Correspondence

[View Correspondence](#)

Other Options

- View all correspondence options

Business Registration

[Create a New UI Account For a Business](#)

Other Options

- Add an existing business to my user account
- View all business registration options

Payments

[Make a Payment](#)

Other Options

- View/edit EFT payments
- Make a payment without signing in
- View all payment options

Account Admin

Most Popular Admin Options

- View account profile
- Display benefit costs
- Rate notice (Form 45)
- Update address information
- File an appeal
- Information for appeals
- Print IRS form 940C
- Close or reopen an account

Other Options

- View all account admin options



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eResponse continued

Sign in or
create a
new
account

Unemployment Insurance and New Hire Reporting

Home Tax Payments New Hire Claims Registration Correspondence Admin Info [Live Chat](#)

System Message

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- The latest Employer Advisor is available and includes information on online filing, new EFT features, and Unemployment Insurance fraud. Please [click here](#) to read it.

Sign In

Email Address:

Password: [Forgot Password?](#)

Are you a first time user? [Click here to signup now.](#)

[Sign In](#)

Unemployment Insurance and New Hire Reporting

Hello, M W [Live Chat](#)

Home Tax Payments New Hire **Claims** Registration Correspondence Admin Info

Claims > File a Form 606 (eResponse)

File a Form 606 (eResponse) [Problem starting responses?](#)

A list of employers you have access to is displayed below. The number of pending electronic requests is also displayed. Please click on the 'Start' link to be redirected to an external site to complete this response. If you haven't signed up for eResponse yet, please click on the 'Sign Up' link for more details.

Important Information

- It can take up to 24 hours to refresh the information on this page after you complete a separation request.
- Be sure to sign out of your eResponse page when transitioning between claims for different employers.

[Add Employer](#)

Once signed
in, click "Add
Employer"



eResponse continued

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Unemployment Insurance and New Hire Reporting Hello, M W

Home Tax Payments New Hire Claims Registration Correspondence Admin Info [Live Chat](#)

Claims > File a Form 606 (eResponse) > Add eResponse Employer

Add eResponse Employer

You will need your Employer ID number and either the Document Number or the Access Code.

Employer ID:

I have a Document Number

I have an Access Code

[Submit](#)

Use Employer
ID, Document #
or Access Code

Sign up for
eResponse only
or include
Electronic
Correspondence

Unemployment Insurance and New Hire Reporting Hello, M W

Home Tax Payments New Hire Claims Registration Correspondence Admin Info [Live Chat](#)

Claims > File a Form 606 (eResponse) > eResponse Options

eResponse Options

You have two options to sign up for electronic separation responses. Please select one of the options below.

Option	Description
Click here to sign up for Electronic Correspondence	Receive all of your Unemployment Insurance (UI) correspondence through a secure web message center. This includes the ability to respond to separation requests on the eReponse website.
Click here to sign up for Electronic Separation Response (eResponse)	Receive and respond to UI separation requests through a secure website. You will be notified via email when you have a response to complete. You will no longer receive separation requests in the mail; all other UI correspondence will still be mailed.



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eResponse continued

New claims will be available on eResponse – current claims are completed by mail or fax

eResponse

You must complete any current paper form(s) by hand and fax it with no cover letter to 801-526-4402. Or, you can mail the form(s) to:

Utah Department of Workforce Services
CO Claims
PO BOX 45277
Salt Lake City, UT 84145

Now that you have successfully signed up for Electronic Separation Response, you will no longer receive these requests in the mail. You will receive an email message at codybrown@hotmail.com to complete future requests online.

OK

File a Form 606 (eResponse)

[Problem starting responses?](#)

A list of employers you have access to is displayed below. The number of pending electronic requests is also displayed. Please click on the 'Start' link to be redirected to an external site to complete this response. If you haven't signed up for eResponse yet, please click on the 'Sign Up' link for more details.

Important Information

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- Be sure to sign out of your eResponse page when transitioning between claims for different employers.

[Add Employer](#)

Employer	Number of Requests	Action
New Employer, LLC.	2	Start

The number of claims to fill out display on this screen



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eResponse Screen from SIDES (once logged in)

The screenshot shows the SIDES E-Response website interface. The header includes the SIDES E-Response logo on the left and the UI SIDES State Information Data Exchange System logo on the right. The main content area displays a welcome message and a selection screen for applications.

SIDES E-Response

UI SIDES
State Information
Data Exchange System

**Welcome to the E-Response Website
for the
Unemployment Insurance State Information Data Exchange System**

Please select the application you want to use:

Notice of UI Claim Filing

- Separation Information
- Wages Reported and Possible Charges
- Determinations and Decisions

Earnings Verification

[Select](#)

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eResponse from SIDES

Sample Separation Information Request Screen

SIDES
E-Response

FEIN: 999999999
SEIN: 123456788

Sign out

Search by SSN: (Omit Dashes)

Search

Announcement: Welcome to UI SIDES SEW.

Separation Information Requests

Separation Information Requests for PIN:

SSN: [REDACTED] Name: [REDACTED] Date Due: 11:59 PM Eastern on 12/24/2011	Response Status: Not Started Create Response	View/Print	?
SSN: [REDACTED] Name: [REDACTED] Date Due: 11:59 PM Eastern on 12/24/2011	Response Status: Not Started Create Response	View/Print	?
SSN: [REDACTED] Name: [REDACTED] Date Due: 11:59 PM Eastern on 12/24/2011	Response Status: Not Started Create Response	View/Print	?
SSN: [REDACTED] Name: [REDACTED] Date Due: 11:59 PM Eastern on 01/14/2012	Response Status: Not Started Create Response	View/Print	?

No separation requests found for other PINs.

Select a Separation Information Request to create a response and/or view/print. Or, select a Separation Information Response to edit, delete or view/print.

Select "Create Response" to begin a response.

Select "Edit Response" to edit information to a response that has not yet been submitted.

Select "Delete Response" to delete a response that has not yet been submitted.

Select "Create Amendment" to change a response that has already been submitted.

Select "Edit Amended Response" to edit information on an amendment in progress.

Select "Delete Amended Response" to delete an amended response that has not yet been submitted.

Note: Requests remain on the SIDES E-Response Website for 30 days.

[Users Guide](#)

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Utah Code Sec. 35A-4-403

(1)(e)(ii) If an employer fails to furnish reports concerning separation and employment as required by this chapter and rules adopted under this chapter, the division shall, on the basis of information it obtains, determine the eligibility and insured status of an individual affected by that failure and the employer is not considered to be an interested party to any such determination



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File Your Appeal Timely

Within 15 days of decision

Good Cause

Continuing Jurisdiction





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Hearings and Appeals

What is a Hearing?:

- Fact Finding Meeting
- Determines if Decisions were made Correctly
- Determines Benefit Cost Liability

Preparing for a Hearing:

- Be available for call / un-interrupted time
- Have all necessary evidence in front of you
- Take notes if you choose to cross examine



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Hearings and Appeals continued

- Review Records
- Arrange for Witnesses
- Note Date and Time of Hearing
- Review Special Instructions
- Requirements Will be Sent
- Rescheduling Required PRIOR to Hearing





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Hearings and Appeals continued

The Notice of Hearing will list all the sections of the Utah Employment Security Act which may be considered at the hearing

Rules are published explaining the elements of the law which must be established by evidence at the hearing
(See jobs.utah.gov/appeals for links to rules)



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Hearings and Appeals continued

Written responses if raising new factual information

Ex Parte Communication is prohibited

Contact regarding procedural matters is allowed

Pre-file documents you want to present as evidence

Meet your Burden of Proof

Request subpoenas for witnesses, when needed (call Appeals office to request)

There is only ONE hearing – prepare for only one!



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Hearings and Appeals Judicial Independence



The ALJs are neutral independent fact finders. They have the responsibility to obtain the evidence necessary to make the correct decisions. Evidence needs to be presented in the hearing on which the ALJ will base the findings and rulings.



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Hearings and Appeals

Presenting Evidence and Witnesses

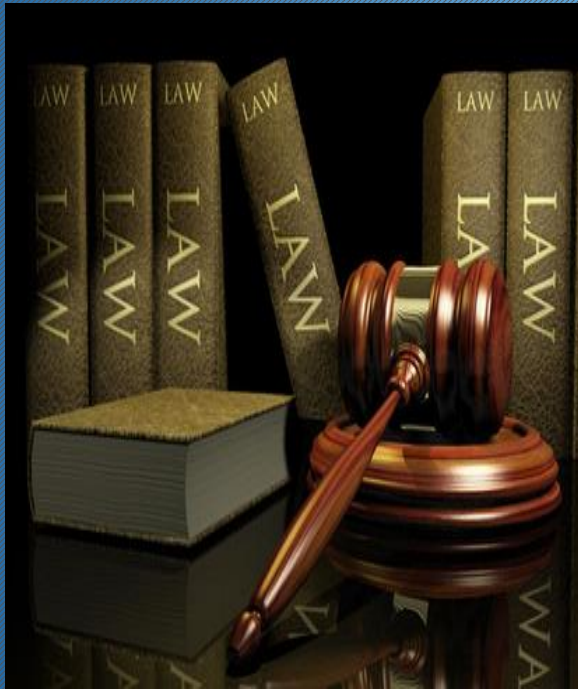
- Discuss witness testimony before the hearing
- Notify ALJ if you need more than 30 minutes to present
- Report on time for the hearing
- Have witnesses with first hand information present
- Don't rely on hearsay evidence
- Bring a witness to explain how documents were prepared



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Hearings and Appeals

Tips for an Effective Hearing



Summarize documents

Avoid asking leading questions

Witness testimony

Explain technical terms/jargon

Cross-examine appropriately

Don't interrupt others testifying



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Hearings and Appeals

Work with the ALJ (Administrative Law Judge)

- Provide rules to ALJ on your employment decisions
- Ask the ALJ for help
- Asking for reconsideration





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Hearings and Appeals

Appeals Process



Initial Department Decision

Appeal before an
Administrative Law Judge

Workforce Appeals Board

Utah Court of Appeals

Utah Supreme Court

U.S. Supreme Court



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Recommendations for Controlling Costs

Screen job applicants and check references

Provide clear job & performance expectations

Monitor new employees carefully

Dismiss unsuitable employees on “probation”

Keep accurate records of all rules violations

Document, document, document



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Recommendations for Controlling Costs continued

Be consistent with disciplinary actions

Offer jobs to laid off employees

Conduct exit interviews

Report job refusals to DWS (801-526-4400), Option 4



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Questions or Comments

Chief ALJ: Kyle Preston

801-526-9511 or

kpresto@utah.gov

Assistant Director: John Davenport

801-526-9497 or

johndavenport@utah.gov