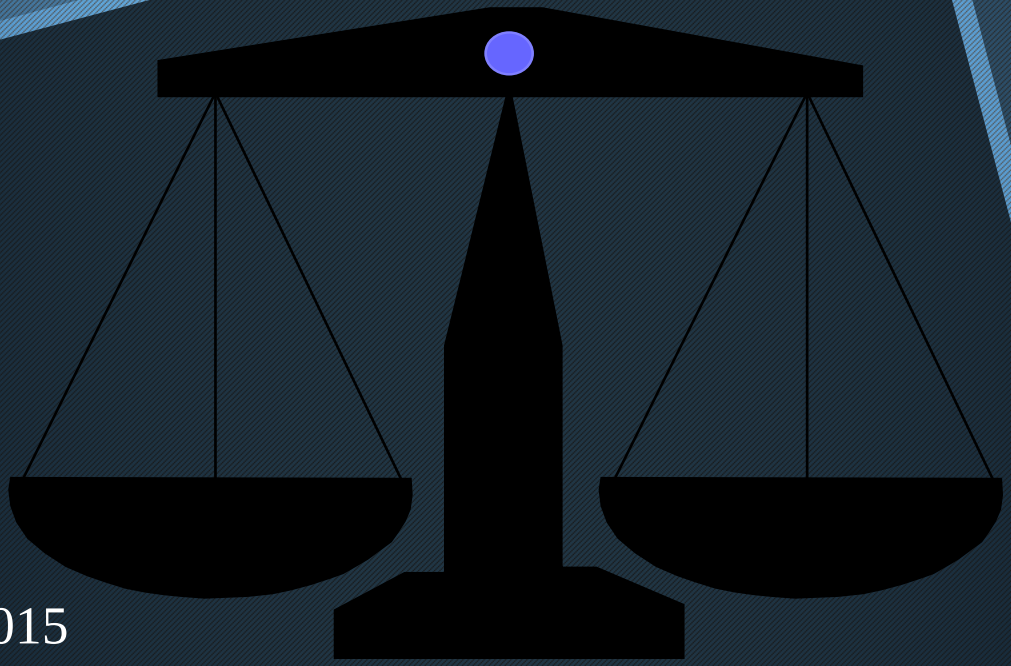
Department of Workforce Services

Unemployment Insurance:

How to Reduce Employer Liability for Unemployment Insurance Claims



Updated March 2015

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TOPICS
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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

Payments

Make a Payment >

Other Options

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

New Hire Reporting

File a New Hire Report

Other Options

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

File New Hire Report

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

Claims

File a Form 606 (eResponse)

File a Wage Audit (613) >

Other Options

- View history of 613 responses
- View all claims 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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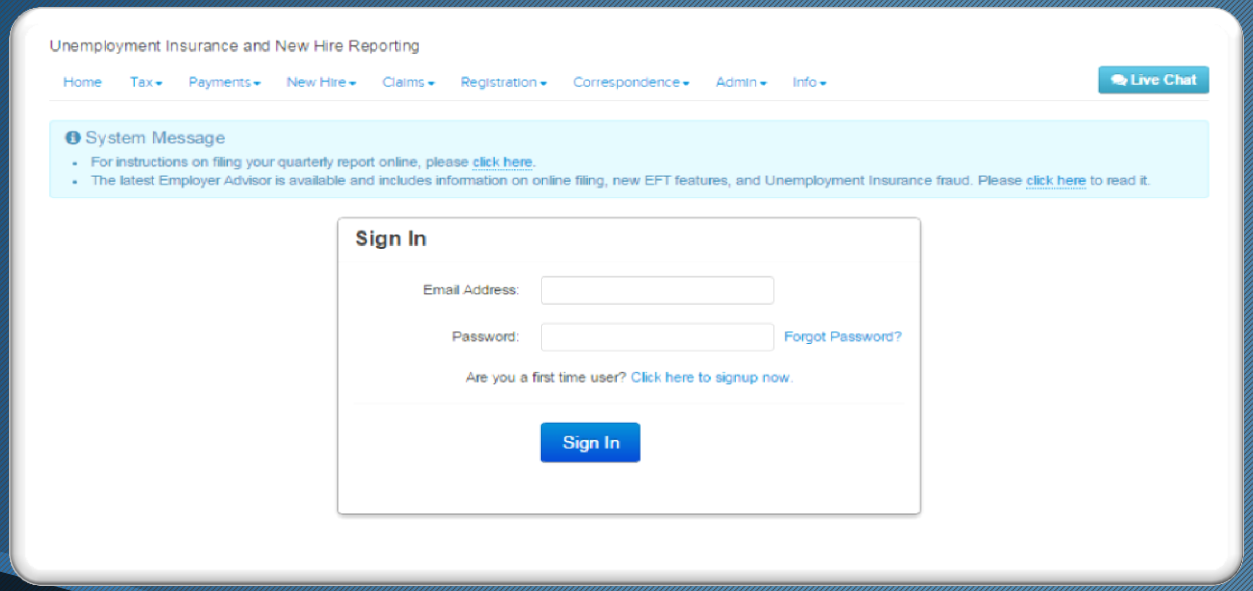
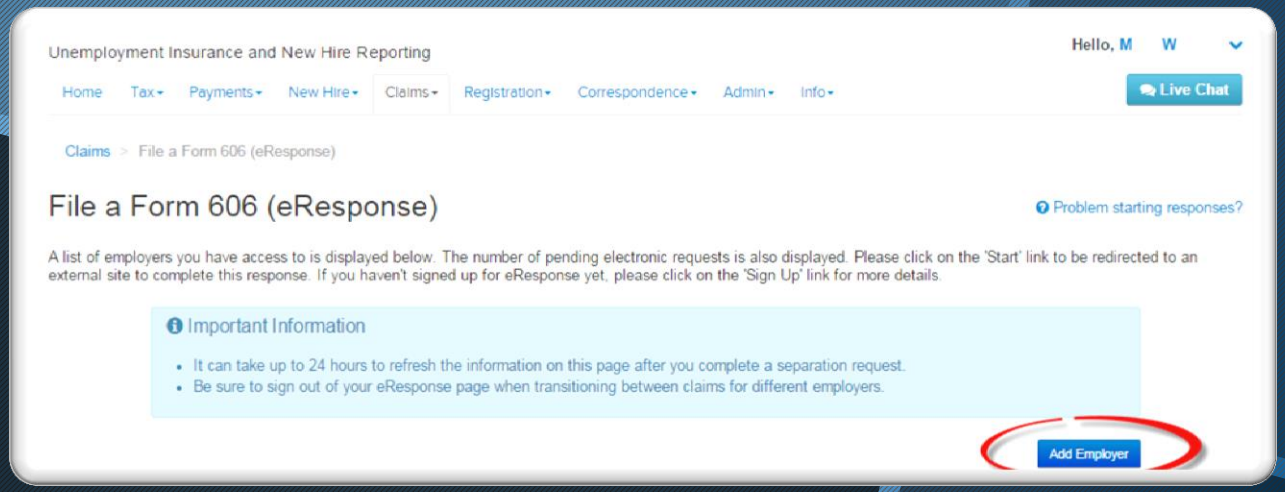
eResponse continued



Sign in or create a new account

Once signed in, click "Add Employer"



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eResponse continued

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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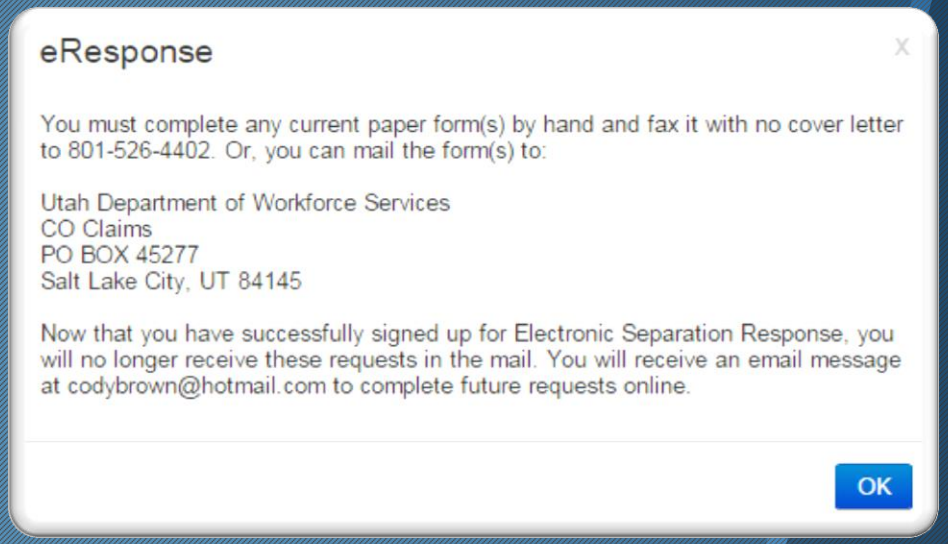
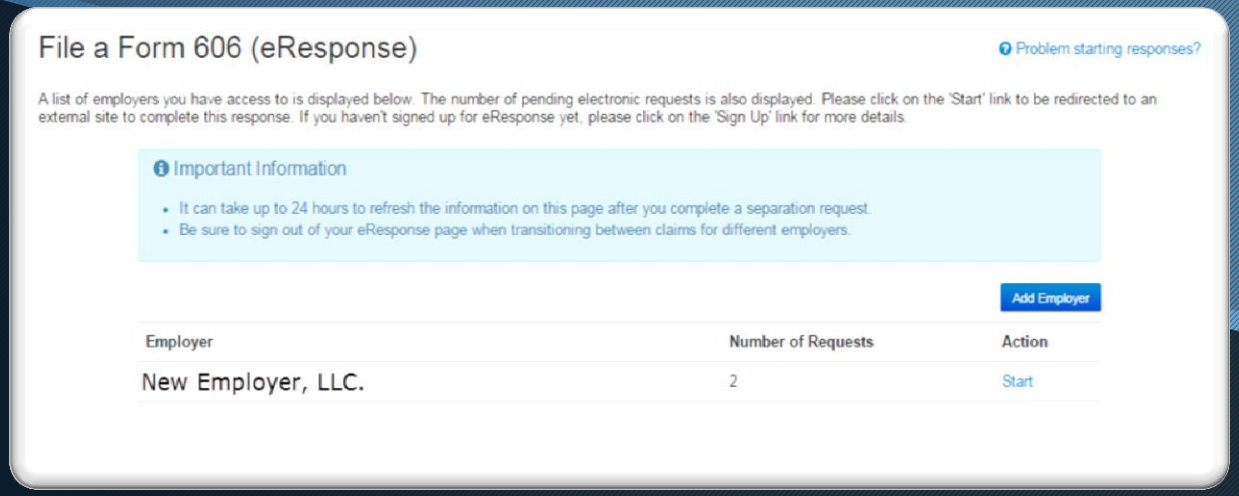
eResponse continued

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





The number of claims to fill out display on this screen

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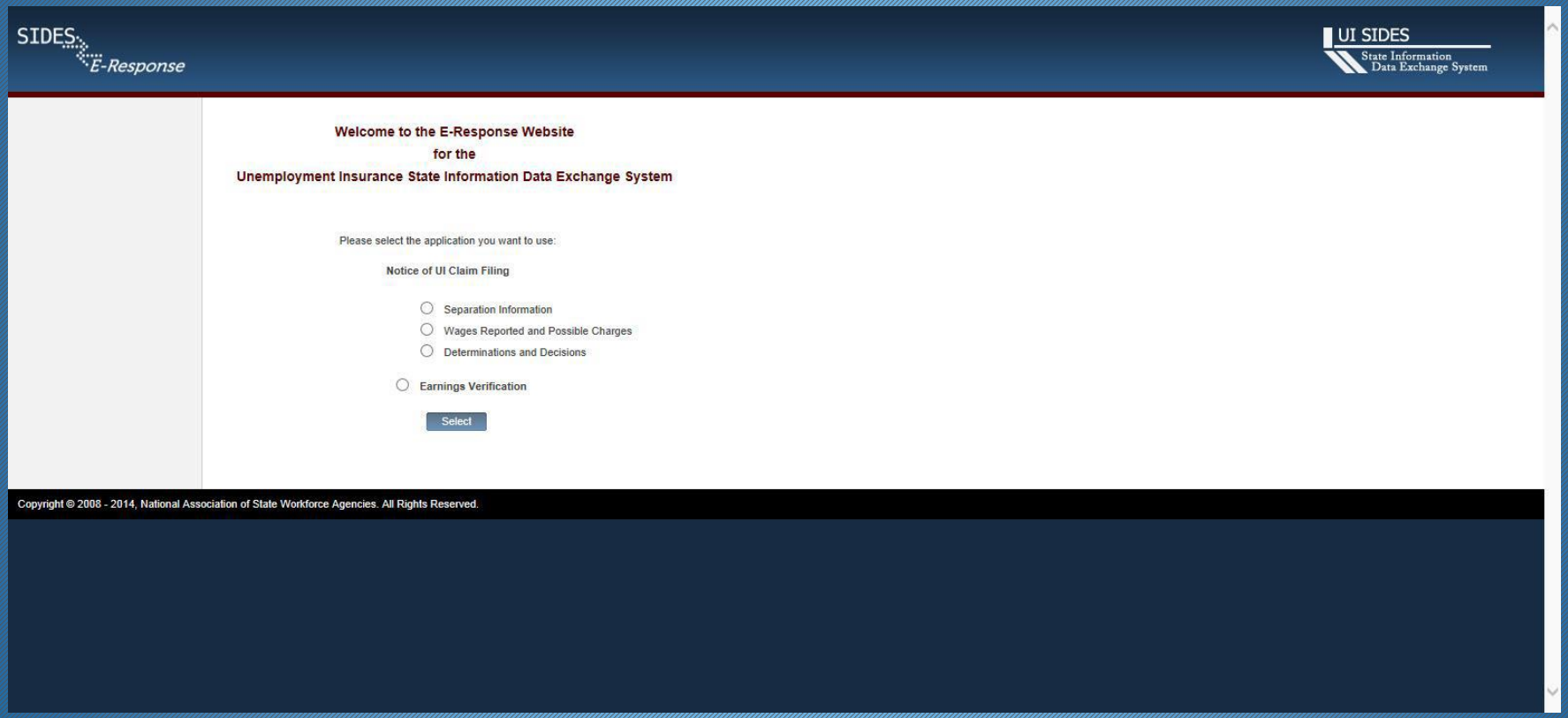
eResponse Screen from SIDES (once logged in)



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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

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

Announcement: Welcome to UI SIDES SEW.

Separation Information Requests

Separation Information Requests for PIN:

SSN:
Name:
Date Due: **11:59 PM Eastern on 12/24/2011**
Response Status: **Not Started**
Create Response
View/Print

SSN:
Name:
Date Due: **11:59 PM Eastern on 12/24/2011**
Response Status: **Not Started**
Create Response
View/Print

SSN:
Name:
Date Due: **11:59 PM Eastern on 12/24/2011**
Response Status: **Not Started**
Create Response
View/Print

SSN:
Name:
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.

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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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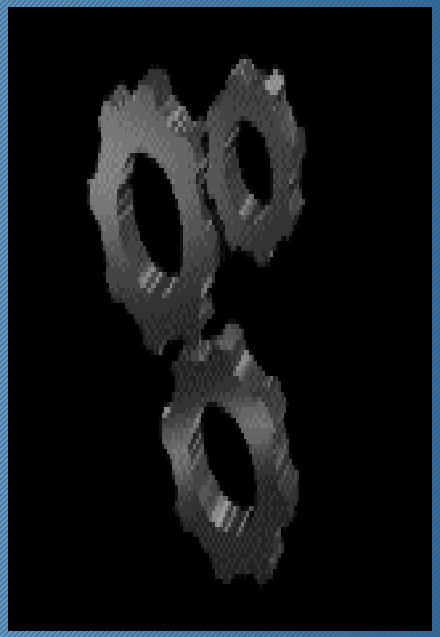
Hearings and Appeals
continued

- 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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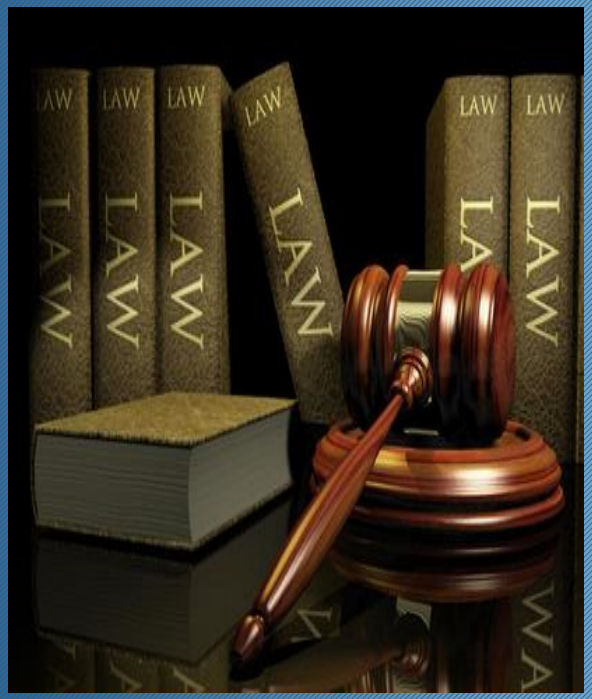
Hearings and Appeals

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