



Understanding Georgia's Employment Security Law and Defending Against Claims

Tracie Johnson Maurer
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Mission of Pro Bono Partnership of Atlanta:

To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals. We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

Pro Bono Partnership of Atlanta Eligibility & Other Information

- In order to be a client of Pro Bono Partnership of Atlanta, an organization must:
 - ✓ Be a 501(c)(3) nonprofit organization.
 - ✓ Be located in or serve the greater Atlanta area.
 - ✓ Serve low-income or disadvantaged individuals.
 - ✓ Be unable to afford legal services.
- *Visit us on the web at www.pbpatl.org*
- Host free monthly webcasts on legal topics for nonprofits
 - ✓ To view upcoming webcasts or workshops, visit the [Workshops Page](#) on our website.

UNEMPLOYMENT INSURANCE TAX ACCOUNT

- Georgia employers, including nonprofit organizations, are required to set up an unemployment insurance tax account in Georgia if they have any employees, regardless of the number of employees or the duration that the employees have been employed.

STATE UNEMPLOYMENT INSURANCE

- A 501(c)(3) nonprofit organization is responsible for paying state unemployment if it employs four or more workers in each of 20 different weeks during a calendar year. Nonprofits with fewer workers do not have to pay unemployment insurance and their employees are not eligible for unemployment payments.

STATE UNEMPLOYMENT INSURANCE

Option One: Contribution Method

- Unemployment taxes are paid on a regular basis by the employer as a percentage of payroll

STATE UNEMPLOYMENT INSURANCE

Option Two: Reimbursable Method

- The nonprofit organization is choosing to *self-insure* their unemployment claims and would not pay state unemployment taxes and rates (“SUTA”) on payroll

STATE UNEMPLOYMENT INSURANCE

Reimbursable Method: Process

- Nonprofit organizations electing the reimbursable method may be required to file either a cash deposit, surety bond, or acceptable securities with the Georgia Department of Labor.
- The Organization must submit a written request at least 30 days before the end of the calendar year to the Georgia Department of Labor Adjudication Section.

**TRUE INDEPENDENT CONTRACTORS ARE NOT
ELIGIBLE FOR UNEMPLOYMENT BENEFITS
UNDER GERORGIA LAW**

3-BASIC FACTORS DEMONSTRATING INDEPENDENT CONTRACTOR STATUS

1. the individual performing the services is absolutely free from the control, direction, or guidance of the performance of the services under a contract of hire, based both on the contract and the actual practice between the parties;
2. the individual is performing services outside the usual course of the employer's business; and
3. the individual is customarily engaged in an independently-established trade, occupation, profession, or business.

WAGES FOR PURPOSES OF UNEMPLOYMENT BENEFITS INCLUDE:

- ALL REMUNERATION FOR PERSONAL SERVICES
- VACATION PAY
- COMMISSIONS
- BONUSES
- AND THE CASH VALUE OF ALL OTHER REMUNERATION

WAGES DO NOT INCLUDE...

- EMPLOYER'S CONTRIBUTION TO RETIREMENT OR LIFE INSURANCE PLANS
- WORKERS' COMPENSATION PAYMENTS;
- COMMISSIONS PAID TO A REAL ESTATE BROKER EXCLUSIVELY FOR THE SALE OF REAL PROPERTY;
- FICA PAYMENTS;
- REMUNERATION PAID FOR SERVICES BY AN ILLEGAL ALIEN;
- ALLOWANCES OR REIMBURSEMENTS FOR TRAVEL OR OTHER BUSINESS RELATED EXPENSES.

PART ONE: MONETARY DETERMINATION

THE DOL MUST ESTABLISH THAT:

1. The claimant must have earned qualifying wages in at least two of the four quarters of the base period of the claim.
2. During the four quarters, the claimant had total wages in an amount equal to or exceeding one and one half times the highest quarter wages in the claimant's base period. In addition, the claimant must have earned a total of \$1,500 in the two highest quarters of the base period; and
3. Wages earned in three quarters of the base period must have been earned with an employer that is actually covered by Georgia's employment security law.

PART TWO: THE NON-MONETARY DETERMINATION – THE DOL ALSO MUST ESTABLISH THAT:

1. The claimant was totally or partially unemployed through no fault of his or her own.
2. The claimant is physically able to do some type of work.
3. The claimant is available for work and has no personal restrictions.
4. The claimant remains actively involved in seeking full time, continuous work.


REASONS A CLAIMANT MAY BE DISQUALIFIED FROM EARNING BENEFITS

1. The employee voluntarily leaves employment without good cause.
2. The claimant was discharged or suspended for failing to obey rules, orders, or instructions.
3. The claimant was terminated for failing to discharge the duties for which he/she was employed.
4. The claimant violated your drug free work place policy.
5. The claimant refused suitable work without good cause.

REASONS A CLAIMANT MAY BE DISQUALIFIED FROM EARNING BENEFITS

6. The claimant had excessive absenteeism or tardiness.
7. The claimant was involved in conduct which results in property loss or damage.
8. The claimant was involved in intentional conduct, which results in bodily injury to the employer, fellow employees, customers, patients, by-standers or the eventual consumer of products.
9. The claimant was involved in a physical fight or threatening behavior in the work place or while on the job.
10. The claimant falsified employment records.

The Separation Notice



State of Georgia
 Department of Labor
SEPARATION NOTICE

1. Employee's Name _____ 2. S. S. No. _____

a. State any other name(s) under which employee worked. _____

3. Period of Last Employment: From _____ To _____

4. REASON FOR SEPARATION:

a. LACK OF WORK

b. If for other than lack of work, state fully and clearly the circumstances of the separation: _____

5. Employee received payment for: (Severance Pay, Separation Pay, Wages-In-Lieu of Notice, bonus, profit sharing, etc.)
 (DO NOT include vacation pay or earned wages)

_____ in the amount of \$ _____ for period from _____ to _____
 (type of payment)

Date above payment(s) was/will be issued to employee _____

IF EMPLOYEE RETIRED, furnish amount of retirement pay and what percentage of contributions were paid by the employer.
 _____ per month _____ % of contributions paid by employer

6. Did this employee earn at least \$3,000.00 in your employ? YES NO If NO how much? \$ _____
 Average Weekly Wage _____

Employer's Name _____ Ga. D. O. L. Account Number _____
 (Number shown on Employer's Quarterly Tax and Wage Report, Form DOL-4.)

Address _____
 (Street or RFD)

City _____ State _____ ZIP Code _____

Employer's Telephone No. _____
 (Area Code) (Number)

I CERTIFY that the above worker has been separated from work and the information furnished hereon is true and correct. This report has been handed to or mailed to the worker.

Signature of Official, Employee of the Employer or authorized agent for the employer _____

Title of Person Signing _____

Date Completed and Released to Employee _____

NOTICE TO EMPLOYER

At the time of separation, you are required by the Employment Security Law, OCGA Section 34-8-190(c), to provide the employee with this document, properly executed, giving the reasons for separation. If you subsequently receive a request for the same information on a DOL-1199FF, you may attach a copy of this form (DOL-800) as a part of your response.

NOTICE TO EMPLOYEE

OCGA SECTION 34-8-190(c) OF THE EMPLOYMENT SECURITY LAW REQUIRES THAT YOU TAKE THIS NOTICE TO THE GEORGIA DEPARTMENT OF LABOR FIELD SERVICE OFFICE IF YOU FILE A CLAIM FOR UNEMPLOYMENT INSURANCE BENEFITS.

SEE REVERSE SIDE FOR ADDITIONAL INFORMATION.

DOL-800 (R-5/99)

Ga. D. O. L. Account Number _____
(Number shown on Employer's Quarterly Tax and Wage Report,
Form DOL-4.)

I CERTIFY that the above worker has been separated from work
and the information furnished hereon is true and correct. This
report has been handed to or mailed to the worker.

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or authorized agent for the employer

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TIPS FOR DOCUMENTING THE TERMINATING EVENT

1. The names and titles of the individuals involved in the terminating incident;
2. A description of the date, time and location of the events leading to the termination circumstances;
3. A description of the triggering event for termination and its results;
4. A statement as to the impact of the employee actions on the company's operation or business and the signature of the person who prepares this documentation as well as the names of any witnesses or other involved parties.

THE APPEAL PROCESS FIRST LEVEL OF APPEAL – ADMINISTRATIVE HEARINGS

- **TIMING:** MUST FILE NOTICE OF APPEAL WITHIN **15** DAYS OF CLAIMS EXAMINER'S DETERMINATION. MOST HEARINGS ARE HELD WITHIN 2-3 WEEKS OF THE DATE THE NOTICE OF APPEAL IS RECEIVED
- **EVIDENCE:** EITHER PARTY MAY BRING IN WITNESSES FOR TESTIMONY AND RELEVANT DOCUMENTS. NO HEARSAY ALLOWED – MUST BRING WITNESSES WITH FIRSTHAND KNOWLEDGE
- **PROCEDURE:** THE HEARING OFFICER WILL TAKE EVIDENCE FOR ONE HOUR. A TAPE RECORDING IS MADE OF THE SESSION
- **COUNSEL:** EITHER PARTY MAY BE REPRESENTED BY LEGAL COUNSEL
- **DECISION:** A WRITTEN DECISION WILL BE RENDERED BY THE HEARING OFFICER

SECOND LEVEL OF APPEAL – BOARD OF REVIEW

- **TIMING:** AGGRIEVED PARTY HAS **15** DAYS FROM DATE DECISION ISSUED BY THE ADMINISTRATIVE HEARING OFFICE TO FILE A NOTICE OF APPEAL
- **EVIDENCE:** THE BOARD OF REVIEW WILL **NOT** TAKE ANY EVIDENCE, NOR WILL IT HEAR TESTIMONY OR REVIEW ANY NEW DOCUMENTS
- **PROCEDURE:** A THREE-MEMBER PANEL APPOINTED BY THE GOVERNOR WILL REVIEW THE DECISIONS BY THE CLAIMS EXAMINER, THE ADMINISTRATIVE HEARING OFFICER, AND ANY EVIDENCE PRESENTED AT THOSE LEVELS
- **DECISION:** A WRITTEN DECISION WILL BE RENDERED BY THE BOARD

THIRD LEVEL OF APPEAL

- DECISIONS FROM THE BOARD OF REVIEW MAY BE APPEALED TO THE SUPERIOR COURT OF THE COUNTY IN WHICH THE CLAIMANT WAS LAST EMPLOYED

QUESTIONS

For More Information:

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

Phone: 404-407-5088

Fax: 404-853-8806

Info@pbpatl.org

www.pbpatl.org