

**Separations
(Quits and Discharges)**

Presented by
**Unemployment Insurance Technical
Subcommittee**



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**Section 1256
California Unemployment Insurance
Code (CUIC)**

Provides that, "An individual is disqualified for unemployment benefits if the director finds that he or she left his or her most recent work voluntarily without **GOOD CAUSE** or that he or she has been discharged for **MISCONDUCT** connected with his or her most recent work."

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GOOD CAUSE
Section 1256-3(b) ~ Title 22

"A real, substantial, and compelling reason, that would cause a reasonable person genuinely desirous of retaining employment to leave work under the same circumstances."

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MISCONDUCT
Section 1256-30(b) ~ Title 22

Four Key Elements:

- 1) A **material duty** owed by the claimant to the employer under the contract of employment.
- 2) A **substantial breach** of that duty.
- 3) That the breach be a **willful or wanton** disregard of that duty.
- 4) That it evinces (proves) a "**disregard of the employer's interests**" (i.e., tends to injure the employer).

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Moving Party

- Sometimes it is hard to tell if the separation is a quit or a discharge. It depends on who is the moving party.
- If the employee left while continued work was available, he/she is the moving party.
- If the employer refused to permit the employee to continue working, the employer is the moving party.

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Voluntary Quits (VQ)

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Common VQ Separations

- Quit to care for a family member.
- Quit to move.
- Quit for health reasons.
- Quit to follow a spouse to a new location.
- Quit to return to school.
- Quit due to transportation issues.
- Quit due to hostile work environment.
- Quit due to financial hardship.
- Quit due to a reduction in hours or wages.

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GOOD CAUSE Common Reasons With Good Cause

- Compelling family reasons.
- Leave work to accompany spouse or registered domestic partner.
- Protection from domestic violence.
- Undue risk of injury or illness.
- Denied Equal Employment Opportunity (EEO).
- Sexual harassment.
- Breach of contract.

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GOOD CAUSE Common Reasons Without Good Cause

- Job dissatisfaction.
- Resentment towards supervisor.
- Dissatisfaction with job, wages, hours, etc.
- In anticipation of termination.
- To return to school.

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CASE #1

Samantha, a librarian at a local community college, moved out of the area to care for her elderly mother who lives 400 miles away. Prior to submitting her resignation, she applied for several positions in her mother's town and also looked into the possibility of having the mother move in with her.

What are the two elements the EDD is looking for when establishing good cause?

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CASE #2

Donna is a principal at a public elementary school and, due to an adversarial relationship with local union leaders, was asked to resign by the school board in an effort to keep the peace. The board claimed that she was good at her job and did not wish to jeopardize any future employment, so she was encouraged to resign instead of being fired. With no other options available to her, Donna submitted her resignation.

Who was the moving party with respect to Donna's resignation?

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CASE #3

Susan is a full-time instructional aide at a high school, and a part-time college student on her way towards earning her teaching credentials. In order to complete her degree, she was required to complete additional coursework that conflicted with her work schedule. She asked to modify her work schedule but when the school couldn't accommodate her request, she submitted her two-week resignation.

Does Susan have good cause for quitting her job?

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CASE #4

Sharon was hired to work as a part-time food service worker, working anywhere from 20-25 hours per week. Due to a drop in demand from students eating lunch in the cafeteria, the school reduced her hours to 10-15 per week. She continued to work the reduced hours because she knew that her contract stipulated that the school reserved the right to change her days/hours. At the end of the school year, the school informed her that she was being re-classified as an on-call employee for the upcoming school year. She immediately resigned.

Does Sharon have good cause for quitting her job?

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Misconduct (MC)

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Common MC Discharges

- Attendance/Punctuality
- Violation of company rule or policy
- Insubordination
- Performance
- Health reasons
- Acts of dishonesty
- Gross negligence

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CASE #5

Oliver Towne was a school bus driver and, as a part of his job, was required to follow all safety rules, including checking his bus before leaving it unattended. On one occasion, Oliver exited the bus after his shift and failed to notice that a child fell asleep on one of the seats. Hours later another bus driver discovered the child and reported the incident to the school who subsequently fired Oliver for misconduct. In response, Oliver said that it was a mistake but he never intended to leave the child alone on the bus.

Are all the elements of misconduct as defined by Section 1256 of the CUIC present?

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CASE #6

Roy was a landscaper who disclosed on his job application that he had a felony conviction. During the hiring process, Roy explained that he was convicted of hiring illegal immigrants but that he was remorseful. The school district hired him and he did an excellent job. Subsequently, the school learned that the true circumstances surrounding the conviction were not as Roy disclosed. The school discovered that he was actually convicted of human trafficking. Roy was immediately terminated.

Was Roy fired for misconduct?

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CASE #7

Polly Ester was a school bus driver and has worked at the same school for several years. By law, school bus drivers are required to have a valid school bus driver's certificate, and her certification was going to expire at the end of the school year on June 30. The school provided 10 hours of in-service training and 8.5 hours of classroom instruction in order to facilitate Polly's chances of passing the test. After taking the test on three different occasions and failing each time, the school decided to discharge her on June 30 when she failed to provide a valid certificate.

Was Polly discharged for misconduct?

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CASE #8

While serving a suspension for failure to follow directives, Jim requested a year-long leave of absence (LOA) for personal reasons. The LOA was denied and Jim was instructed to report to work on May 29, 2014. On May 29, 2014, Jim called in sick and on the following day, May 30, 2014, he requested Family Medical Leave Act (FMLA) to care for his mother through June 30, 2014. While on FMLA, the district came across social media posts from Jim that indicated he was on a trip to Europe beginning June 1, 2014. Jim was immediately terminated. He filed a claim after he found out he was terminated.

Was Jim discharged due to misconduct?

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CASE #9

Beverly was a crossing guard working split shifts five days a week at a nearby school. Due to budget cuts, the school reduced staff on November 19. Beverly did not have enough seniority to retain her job but could "bump" a crossing guard at another school location within the district. The pay and hours would be the same; however, she would have to travel 24 miles to the new school if she were to accept the job. She asked the district not to consider her for the crossing guard position because of the commute.

What is the reason for Beverly's separation?

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The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

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