

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE A: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED DURING THE YEAR 2019**

Subject: Employee Defined

621(b)-1. Employer-Employee Relationship

4304-13. Employee Defined, Test Generally Applicable to Determinations of
Employment effective January 1, 2020

California Code of Regulations Title and Sections Affected: Title 22,
California Code of Regulations, Sections 621(b)-1 and 4304-13

Statute(s) Being Implemented: Unemployment Insurance Code, Section 621(b)

Responsible Agency Unit: Tax Branch, Field Audit and Compliance Division

Contact Person and Phone Number: James Mendoza, (209) 726-5451

Projected Notice Publication Date: October 2020

Projected Public Hearing Date: November 2020

Projected Adoption by Your Agency Date: January 2021

Projected To OAL for Review Date: January 2021

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE A: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED DURING THE YEAR 2019**

Subject: Family Temporary Disability Insurance Maximum Benefit Duration – Make the regulatory provisions related to maximum benefit duration consistent with the statutory provisions of Senate Bill 83 (Chapter 24, Statutes of 2019). Senate Bill 83 expands the maximum duration for Family Temporary Disability Insurance benefits from six to eight weeks within a 12-month period of family care leave.

California Code of Regulations Title and Sections Affected: Title 22, California Code of Regulations, Sections 3301(d)-1, 3302-1 and 3303-1

Statute(s) Being Implemented: Unemployment Insurance Code, Section 3301

Responsible Agency Unit: Disability Insurance Branch

Contact Person and Phone Number: Rachel Mendoza, (916) 654-7990

Projected Notice Publication Date: N/A

Projected Public Hearing Date: N/A

Projected Adoption by Your Agency Date: June 2020

Projected To OAL for Review Date: June 2020

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE A: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED DURING THE YEAR 2019**

Subject: Employee Defined

- 4304-1. Employee Defined, Rules Generally Applicable to Determinations of Employment.
- 4304-2. Specific Application of Rules for Determination of Employment Status to Circumstances in the Real Estate Industry.
- 4304-3. Specific Application of Rules for Determination of Employment Status to Circumstances in the Home Health Care Industry.
- 4304-4. Specific Application of Rules for Determination of Employment Status to Circumstances in the Computer Services Industry.
- 4304-5. Specific Application of Rules for Determination of Employment Status of Artists.
- 4304-6. Application to Newspaper Distribution Industry.
- 4304-7. Specific Application of Rules for Determination of Employment Status to Circumstances in the Product Demonstrator Industry.
- 4304-8. Specific Application of Rules for Determination of Employment Status to Circumstances in the Security Dealer's Industry.
- 4304-9. Specific Application of Rules for Determination of Employment Status to Circumstances in the Language Interpreter's Industry.
- 4304-10. Specific Application of Rules for Determination of Employment Status of Amateur Athletic Officials.
- 4304-11. Specific Application of Rules for Determination of Employment Status to Circumstances in the Process Server's Industry.
- 4304-12. Specific Application of Rules for Determination of Employment Status to Circumstances in the Barbering and Cosmetology Industry.

California Code of Regulations Title and Sections Affected: Title 22, California Code of Regulations, Sections 4304-1 through 4304-12

Statute(s) Being Implemented: Unemployment Insurance Code, Section 621(b)

Responsible Agency Unit: Tax Branch, Field Audit and Compliance Division

Contact Person and Phone Number: James Mendoza, (209) 726-5451

Projected Notice Publication Date: October 2020

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**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Specific Application of Rules for Determinations of Individuals Excluded from Employment – Elected Officials

634.5(c)(1)-1. Elected Official

California Code of Regulations Title and Sections Affected: Title 22, California Code of Regulations, Section 634.5(c)(1)-1

Statute(s) Being Implemented: Unemployment Insurance Code, Section 634.5

Responsible Agency Unit: Tax Branch, Field Audit and Compliance Division

Contact Person and Phone Number: James Mendoza, (209) 726-5451

Projected Notice Publication Date: August 2020

Projected Public Hearing Date: September 2020

Projected Adoption by Your Agency Date: November 2020

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Report on the Status of all Uncompleted Rulemaking Described on Previous Calendars: This rulemaking item was reported in the Department's 2019 calendar. This regulation has been drafted and is still under review.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Taxable Value of Meals and Lodging – 2012-2021

- 926-3. Taxable Value of Board and Lodging
- 926-4. Taxable Value of Meals and Quarters Furnished
Officers and Crewmen Aboard Vessels
- 926-5. Taxable Value of Meals and Quarters Received by
Fishermen Aboard Fishing Vessels

California Code of Regulations Title and Sections Affected: Title 22,
California Code of Regulations, Sections 926-3, 926-4 and 926-5

Statute(s) Being Implemented: Unemployment Insurance Code, Section 926

Responsible Agency Unit: Tax Branch, Field Audit and Compliance Division

Contact Person and Phone Number: James Mendoza, (209) 726-5451

Projected Notice Publication Date: July 2020

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Projected Adoption by Your Agency Date: October 2020

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**Report on the Status of all Uncompleted Rulemaking Described on
Previous Calendars:** This rulemaking item was reported in the Department's 2019
calendar. This regulation has been drafted and is under review.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Filing of Returns and Payment of Taxes

927-1. Tips as Wages
929-1. Allowance for Traveling, Automobile, and Other Business Expenses
931.5-1. Third Party Sick Pay
1088-1. Filing of Reports, Returns, and Payroll Tax Deposits with Payment of Taxes—
General
1088-2. Reports and Returns Covering Seamen Employed Under Shipping Articles
1088-3. Reports Covering Wages Due and Unpaid
1114-1. Wage Item Penalty
3267-1. Reports from Voluntary Plans

California Code of Regulations Title and Sections Affected: Title 22,
California Code of Regulations, Sections 927-1, 929-1, 931.5-1, 1088-1, 1088-2, 1088-
3, 1114-1 and 3267-1

Statute(s) Being Implemented: Unemployment Insurance Code, Sections 927,
929, 931.5, 1088, 1114 and 3267

Responsible Agency Unit: Tax Branch, Field Audit and Compliance Division

Contact Person and Phone Number: James Mendoza, (209) 726-5451

Projected Notice Publication Date: August 2020

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**Report on the Status of all Uncompleted Rulemaking Described on
Previous Calendars:** This rulemaking item was reported in the Department's 2019
calendar. This regulation has been drafted and is still under review.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Non-Relieving of Employer Charges

Add a new section to clarify when an employer's reserve account will not be relieved of charges due to a benefit overpayment when the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to requests for information relating to an unemployment insurance claim.

California Code of Regulations Title and Sections Affected: Title 22, California Code of Regulations, Section 1026-2 (new)

Statute(s) Being Implemented: Unemployment Insurance Code, Section 1026.1

Responsible Agency Unit: Unemployment Insurance Branch

Contact Person and Phone Number: Cathy Barratt, (916) 654-7323

Projected Notice Publication Date:

Projected Public Hearing Date:

Projected Adoption by Your Agency Date:

Projected To OAL for Review Date:

Report on the Status of all Uncompleted Rulemaking Described on Previous Calendars: This rulemaking item was reported in the Department's 2019 calendar, but is being withdrawn by the Department. The Department may submit this item in the future.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Reporting a Newly Hired Employee

Amend current regulation section relating to the Federal Trade Adjustment Assistance Extension Act of 2011 (Public Law 112-40).

California Code of Regulations Title and Sections Affected: Title 22,
California Code of Regulations, Section 1088.5-1

Statute(s) Being Implemented: Unemployment Insurance Code, Section 1088.5

Responsible Agency Unit: Tax Branch, Field Audit and Compliance Division

Contact Person and Phone Number: James Mendoza, (209) 726-5451

Projected Notice Publication Date: September 2020

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Projected Adoption by Your Agency Date: December 2020

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**Report on the Status of all Uncompleted Rulemaking Described on
Previous Calendars:** This rulemaking item was reported in the Department's 2019
calendar. This regulation has been drafted and is still under review.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Certification for Benefits

Amend sections to include Unemployment Insurance benefit certification by telephone and Internet, and all related procedures, including the use of "digital" signatures.

California Code of Regulations Title and Sections Affected: Title 22, California Code of Regulations, Sections 1251-1, 1279.5-1, 1279.5-2, 1279.5-5, 1279.5-6, 1326-1, 1326-4, 1326-5, 1326-6, 1326-7, 1326-8 and 1341-1

Statute(s) Being Implemented: Unemployment Insurance Code, Section 1326

Responsible Agency Unit: Unemployment Insurance Branch

Contact Person and Phone Number: Cathy Barratt, (916) 654-7323

Projected Notice Publication Date: November 2020

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Projected Adoption by Your Agency Date: March 2021

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Report on the Status of all Uncompleted Rulemaking Described on Previous Calendars: This rulemaking item was reported in the Department's 2019 calendar. No rulemaking was commenced on this item due to other Unemployment Insurance Branch priorities and insufficient staff resources.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Section 1326, Electronic Benefit Payments

Amend these sections to: (1) change the definitions of "benefits," "received," and "payment," (2) change the references from mailing a benefit check to the claimant or being paid a benefit to authorizing payment to the claimant, and (3) add a new section to prescribe how benefits will be paid. These changes allow for the electronic benefit payments whereby: (1) claimants receive benefits via debit card deposits and (2) the payment authorization constitutes payment or receipt of benefits for the purposes of establishing an overpayment or meeting claim cancellation criteria.

California Code of Regulations Title and Sections Affected: Title 22, California Code of Regulations, Sections 1251-1, 1326 – 1(b)(2), 1326-1(b)(3), 1326-6(b), 1339 (new), 1375-1(a), 1375-1(a)(2), 1375-1(c) and 1375-1(c)(3) Examples 1, 4 and 5

Statute(s) Being Implemented: Unemployment Insurance Code, Section 1339

Responsible Agency Unit: Unemployment Insurance Branch

Contact Person and Phone Number: Cathy Barratt, (916) 654-7323

Projected Notice Publication Date: November 2020

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Projected Adoption by Your Agency Date: March 2021

Projected To OAL for Review Date: March 2021

Report on the Status of all Uncompleted Rulemaking Described on Previous Calendars: This rulemaking item was reported in the Department's 2019 calendar. No rulemaking was commenced on this item due to other Unemployment Insurance Branch priorities and insufficient staff resources.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Registration for Work

Make changes to clarify the Employment Development Department's policy regarding claimants' requirements to register for work in CalJOBSSM.

California Code of Regulations Title and Sections Affected: Title 22,
California Code of Regulations, Section 1253(b)-1

Statute(s) Being Implemented: Unemployment Insurance Code, Section
1253(b)

Responsible Agency Unit: Unemployment Insurance Branch

Contact Person and Phone Number: Cathy Barratt, (916) 654-7323

Projected Notice Publication Date:

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**Report on the Status of all Uncompleted Rulemaking Described on
Previous Calendars:** This rulemaking item was reported in the Department's 2019
calendar, but is being withdrawn by the Department. The Department may submit this
item in the future.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
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**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Week of Unemployment

Amend this section to remove the requirement to report in person to an employment office and to replace it with adhering to Unemployment Insurance reporting instructions as required by the Unemployment Insurance program to qualify for a week of unemployment. Also, amend this section to include the acceptance of an Unemployment Insurance application between 12:01 a.m. Sunday morning through 12 midnight of the subsequent Saturday.

California Code of Regulations Title and Sections Affected: Title 22, California Code of Regulations, Section 1253-2

Statute(s) Being Implemented: Unemployment Insurance Code, Section 1253

Responsible Agency Unit: Unemployment Insurance Branch

Contact Person and Phone Number: Cathy Barratt, (916) 654-7323

Projected Notice Publication Date: November 2020

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Report on the Status of all Uncompleted Rulemaking Described on Previous Calendars: This rulemaking item was reported in the Department's 2019 calendar. No rulemaking was commenced on this item due to other Unemployment Insurance Branch priorities and insufficient staff resources.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Benefit Year

Add a new section to clarify the definition of a benefit year and to specify that individuals are allowed only one valid claim per 52-week period (i.e., one benefit year).

California Code of Regulations Title and Sections Affected: Title 22,
California Code of Regulations, Section 1276 (new)

Statute(s) Being Implemented: Unemployment Insurance Code, Section 1276

Responsible Agency Unit: Unemployment Insurance Branch

Contact Person and Phone Number: Cathy Barratt, (916) 654-7323

Projected Notice Publication Date:

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**Report on the Status of all Uncompleted Rulemaking Described on
Previous Calendars:** This rulemaking item was reported in the Department's 2019
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item in the future.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
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**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Work Sharing Unemployment Insurance Benefits (Assembly Bill 1392, Chapter 141, Statutes of 2013)

Add new regulations to clarify the provisions of Section 1279.5 of the California Unemployment Insurance Code pertaining to work sharing plans effective on or after July 1, 2014.

California Code of Regulations Title and Sections Affected: Title 22, California Code of Regulations, Section 1279.5-1

Statute(s) Being Implemented: Unemployment Insurance Code, Section 1279.5

Responsible Agency Unit: Unemployment Insurance Branch

Contact Person and Phone Number: Cathy Barratt, (916) 654-7323

Projected Notice Publication Date:

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Report on the Status of all Uncompleted Rulemaking Described on Previous Calendars: This rulemaking item was reported in the Department's 2019 calendar, but is being withdrawn by the Department. The Department may submit this item in the future.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Claim Cancellation Criteria

Add new regulations to clarify Section 1329.1 of the California Unemployment Insurance Code regarding Unemployment Insurance claim cancellation criteria.

California Code of Regulations Title and Sections Affected: Title 22,
California Code of Regulations, Section 1329-1 (new)

Statute(s) Being Implemented: Unemployment Insurance Code, Section 1329.1

Responsible Agency Unit: Unemployment Insurance Branch

Contact Person and Phone Number: Cathy Barratt, (916) 654-7323

Projected Notice Publication Date:

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**Report on the Status of all Uncompleted Rulemaking Described on
Previous Calendars:** This rulemaking item was reported in the Department's 2019 calendar, but is being withdrawn by the Department. The Department may submit this item in the future.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
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**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: State Disability Insurance - Establish definitions for the terms "Date Disability Began" and "Claim Effective Date." These definitions will eliminate ambiguity and clarify the use of each date when determining a claimant's base period and benefit award.

California Code of Regulations Title and Sections Affected: Title 22, California Code of Regulations, Section 2655(d)-1

Statute(s) Being Implemented: Unemployment Insurance Code, Section 2655

Responsible Agency Unit: Disability Insurance Branch

Contact Person and Phone Number: Rachel Mendoza, (916) 654-7990

Projected Notice Publication Date: September 2020

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Projected Adoption by Your Agency Date: December 2020

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Report on the Status of all Uncompleted Rulemaking Described on Previous Calendars: This rulemaking item was reported in the Department's 2019 calendar. Regulations were drafted on this item and are currently under review.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Family Temporary Disability Insurance Qualifying Exigency – Establish eligibility requirements and definitions of new terms related to the new Paid Family Leave component for “qualifying exigency” pursuant to Senate Bill 1123 (Chapter 849, Statutes of 2018).

California Code of Regulations Title and Sections Affected: Title 22, California Code of Regulations, Sections 2706-2, 3302-1 and 3303.1(a)-1

Statute(s) Being Implemented: Unemployment Insurance Code, Sections 3301, 3302.1, 3302.2, 3303, 3303.1 and 3307

Responsible Agency Unit: Disability Insurance Branch

Contact Person and Phone Number: Rachel Mendoza, (916) 654-7990

Projected Notice Publication Date: July 2020

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**Report on the Status of all Uncompleted Rulemaking Described on
Previous Calendars:**

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: State Disability Insurance – Establish criteria for determining timeliness of a State Disability Insurance benefit payment pending an appeal when the envelope with a postmark date is not retained. Clarify that the postmark date is established by counting back five business days from the receipt date.

California Code of Regulations Title and Sections Affected: Title 22,
California Code of Regulations, Sections 2706-5 and 2706-7

Statute(s) Being Implemented: Unemployment Insurance Code, Section 2706

Responsible Agency Unit: Disability Insurance Branch

Contact Person and Phone Number: Rachel Mendoza, (916) 654-7990

Projected Notice Publication Date: July 2020

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**Report on the Status of all Uncompleted Rulemaking Described on
Previous Calendars:** This rulemaking item was reported in the Department's 2019
calendar. Regulations were drafted on this item and are currently under review.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
2020 RULEMAKING CALENDAR**

**SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING
STATUTES ENACTED PRIOR TO THE YEAR 2019**

Subject: Withholding Exemption Certificates

Amend current regulation section due to an incorrect cross-referenced Title 26, Code of Federal Regulations section and to change the Employment Development Department Form Reference Number.

California Code of Regulations Title and Sections Affected: Title 22,
California Code of Regulations, Section 4340-1

Statute(s) Being Implemented: Unemployment Insurance Code, Section 13040

Responsible Agency Unit: Tax Branch, Field Audit and Compliance Division

Contact Person and Phone Number: James Mendoza, (209) 726-5451

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**Report on the Status of all Uncompleted Rulemaking Described on
Previous Calendars:** This rulemaking item was reported in the Department's 2019
calendar. This is a change without regulatory effect pursuant to Title 1, California Code
of Regulations, Section 100, and amends subdivisions (b) and (c) of Section 4340-1.