



## Unemployment Compensation Hearing Guide Updated June 27, 2018

The initial Unemployment Compensation (UC) decision may be appealed by either party resulting in a scheduled UC hearing. The purpose of a UC hearing is to allow both parties to present testimony and evidence, which will enable the hearing officer to make a reasonable and unbiased decision. This guide is to assist National Aeronautics and Space Administration (NASA) personnel in preparing for an upcoming scheduled hearing.

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### **Document History Log**

| Status<br>(Basic/Revision/<br>Cancelled) | Revision Date | Description of Change |
|--|---------------|-----------------------|
| Basic<br>(Version 1)                     | June 27, 2018 | Basic Release         |

### **What to Expect**

The NASA Shared Services Center (NSSC) Unemployment Compensation Team will coordinate witnesses' participation and document submission. The UC hearings are typically conducted telephonically. You will receive a copy of the hearing notice and any evidence submitted for the claim. Once the hearing begins, the hearing officer will summarize the record, explain the manner in which the hearing will be conducted and sequence of testimony, swear in witnesses, and ask questions of the claimant and all witnesses. At the end of the hearing, all parties are provided an opportunity to cross-examine the opposing party and witnesses. A copy of the written decision will be provided to the NSSC and your Center representatives approximately 1 month after the hearing.

### **Burden of Proof**

The burden of proof rests with the party that initiated the separation.

- **Resignation Cases:** If the separation was a voluntary resignation, it is the claimant's responsibility to prove by a preponderance of the evidence the resignation was for compelling reasons.
- **Discharge Cases:** If the claimant was removed for cause, it is NASA's responsibility to show that the claimant should be disqualified from receiving benefits. If discharge was due to misconduct, it must be established to disqualify the claimant from receiving benefits.

### **Evidence**

Copies of all documents presented during the initial claim development are part of the record. These documents and those submitted by the claimant will be available prior to the hearing for review.

Types of documents that should be submitted in advance of the hearing include:

- Letters of resignation
- Supervisory counseling notes/summary, including copies of verbal or written warnings
- Prior disciplinary actions directly related to the removal
- Last chance agreements
- Copies of Training Records
- Photos of work locations, items, or property damage
- Copies of policies, regulations, rules, or handbooks
- Attendance records (absenteeism/tardiness)
- Police reports or loss prevention documents
- Expense reports, charge card statements, etc.
- Copies and/or proof of falsified documents

### **Witness Representation**

Witnesses should have personal involvement in or knowledge of the circumstances surrounding the separation or termination of employment to answer specific questions regarding the separation. The NSSC will need to know your primary witness who will be answering questions presented by the hearing offices. Types of witnesses may include:

- Human Resources Office personnel or others involved in progressive disciplinary action
- Claimant's immediate supervisor or management who discharged claimant
- Attorney
- Any other firsthand witnesses

### Types of Questions

The hearing officer will provide each witness with a set of questions. Be prepared to provide background information necessary for the hearing officer to understand the work performed and situation surrounding the case. It may be helpful to have all supporting documents and files available at the time of the hearing to answer any detailed or specific questions. Depending on the reason for separation, some typical questions may include:

- What was claimant's first and last day of work? This may be different than the date of separation.
- What was claimant's job title and salary on the date of separation?
- What was the reason for the claimant's resignation?
- Who and when were Agency personnel notified of the resignation?
- Did the claimant receive training about or know of the infraction?
- Was the employee counseled about the poor performance? Copies of counseling dates and records may be requested.
- Were there mitigating factors that reasonably explain the employee's conduct?
- Was there a clear rule against the kind of behavior that resulted in the termination?
- Was the claimant provided a reasonable opportunity to learn rules and consequences for violating such rules?
- Was the claimant provided a reasonable opportunity to learn or improve performance?
- Did the claimant inform you of any medical condition that prevented the claimant from performing work duties? If so, what accommodations were provided?

If you have any questions concerning this document, please contact:

**NSSC Customer Contact Center**

1-877-677-2123 (1-877-NSSC123) or [nssc-contactcenter@nasa.gov](mailto:nssc-contactcenter@nasa.gov)  
and request to speak with the Unemployment Compensation Team