

# Plain Language is Critical for Equitable Access to Unemployment Insurance

by Flannery O'Rourke

## Summary

“What does this letter mean?” is a common question asked by workers upon receiving notices from state unemployment insurance (UI) agencies. The UI system is supposed to protect workers against the financial impact of job loss. But unclear language in UI application forms, notices, and websites makes it difficult for workers to access their UI benefits. Workers should not need to become fluent in legal jargon to understand the UI program or their rights within it.

Federal law and guidance require that states ensure the UI program is accessible to all workers.<sup>1</sup> Using plain language in communications with workers is a key method to ensure accessibility. Plain language improves accessibility of state UI programs by ensuring that programmatic information and forms are understandable to workers. Plain language is a critical tool for protecting workers' legal rights, ensuring workers can claim their UI benefits and making state UI agencies more efficient.

## Key Points

- State UI agencies often provide unclear and incomplete information in application forms, notices, and websites.
- This can prevent workers from accessing UI benefits and from enforcing their due process rights.
- Unclear UI information can also put state UI agencies out of conformity with federal law and guidance.

## Key Solutions

- State UI agencies should use plain language principles to ensure that workers understand their rights and responsibilities in the UI program and to ensure equitable access to the UI program.

## An Introduction to Plain Language

Plain language is writing that is easy for the reader to understand.<sup>2</sup> It is defined as “writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience.”<sup>3</sup> But it is not simply a set of grammar and formatting rules. It is an approach to writing that centers the needs of the intended audience.<sup>4</sup> So, in the case of UI communications, plain language can ensure that state agencies tell workers what they need to know in a way the workers can understand. It also can ensure that workers understand what they are being asked. For example, the U.S. Department of Labor found that on UI applications, workers better understood the simple question of “Why did your job

end?” than the longer and more complex statement: “Please select your reason for separation from this employer.”<sup>5</sup>

Plain language is not a new concept. Prominent scholars and leaders have long advocated for simplified language in statutes and in communications about the law.<sup>6</sup> However, the current plain language movement took hold in the 1970s. It started with a *different* type of insurance. In 1974, the federal Employment Retirement Income Security Act of 1974 required that policies be written in a “manner calculated to be understood by the average plan participant.”<sup>7</sup> Three years later, New York enacted a law requiring consumer contracts to be written in plain language.<sup>8</sup>

In 1978, President Carter brought the plain language requirement to all federal agencies.<sup>9</sup> His Executive Order 12044 required that each significant regulation be “written in plain English and [. . .] understandable to those who must comply with it.”<sup>10</sup> President Reagan subsequently revoked the order.<sup>11</sup> In 1993, President Clinton made a renewed push for plain language in federal regulations. His Executive Order 12866 stated, “Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.”<sup>12</sup> In 1998, President Clinton further issued a memorandum to federal agencies requiring that they use plain language.<sup>13</sup>

Federal and state laws increasingly set plain language requirements. In 2010, Congress passed the Plain Writing Act of 2010. The stated purpose of the Act was to “improve the effectiveness and accountability of Federal agencies to the public by promoting clear Government communication that the public can understand and use.”<sup>14</sup> The Act requires federal agencies to “use plain writing in every covered document of the agency that the agency issues or substantially revises.”<sup>15</sup> As of 2023, there were more than 750 federal and state plain language laws,<sup>16</sup> including a few state UI laws.<sup>17</sup>

## Why State UI Agencies Should Use Plain Language

State UI agencies should use plain language to comply with accessibility requirements under federal law and guidance, to ensure that workers’ legal rights are protected, to prevent or reduce burdens on workers, and to promote administrative efficiency.

### Legal Requirements for Plain Language Use in UI Communications

Plain language is an essential tool for ensuring that workers can access the UI program, as required by the Social Security Act and U.S. Department of Labor guidance. Plain language can also help state UI agencies meet constitutional notice requirements.

#### Equitable Access to UI

Under the Social Security Act, state UI agencies must use methods of administration to ensure workers receive benefits “when due.”<sup>18</sup> This means state UI agencies must ensure that workers are able to access the program. The U.S. Department of Labor defines “access” as: all individuals must “have the opportunity to be informed of, and take appropriate action(s) to complete the following without facing undue burdens or barriers related to their claim:

- Apply for benefits;
- Maintain their entitlement to UI benefits; and
- Access services.”<sup>19</sup>

Federal law and guidance also require that workers have *equitable* access to UI.<sup>20</sup> U.S. Department of Labor guidance named equitable access as a requirement of the UI program.<sup>21</sup> Equitable access means the system is tailored to meet the unique needs of different populations.<sup>22</sup> The U.S. Department of Labor explains that state UI agencies must ensure access of “workers in populations that may be underserved or marginalized and struggle to establish, maintain, and protect their right to UI benefits.”<sup>23</sup> State UI agencies can use plain language to make the program more accessible. This is especially important as most unemployed workers do not apply for UI.<sup>24</sup> In particular, workers who are younger, less educated, or Black are less likely to apply for UI due to the belief that they are not eligible.<sup>25</sup>

States can achieve equitable access by broadly disseminating information about UI program eligibility and how to start the application process.<sup>26</sup> Many workers do not have direct assistance after job loss to advise them on the availability of UI.<sup>27</sup> Thus, information on UI eligibility must be written in plain language—not technical or legal jargon—to ensure it is tailored to the targeted workers.

The need for plain language does not end when state UI agencies inform workers of the availability of UI. Every state UI agency communication with workers can be improved through use of plain language. State UI agencies can use plain language to ensure that workers understand what their rights and responsibilities are in the UI program. State UI agencies can also use plain language to make sure that workers can understand the questions they are asked on application, claim, and adjudication forms. All state UI agency claimant notices, including determinations of eligibility and overpayments, should be written in plain language. Workers need to understand what step of the UI process they are in, what comes next, and when a response from them is required.<sup>28</sup>

Plain language *alone* cannot ensure that all workers have access to the UI program. Under federal law and guidance, state UI agencies must also notify workers of the availability of auxiliary aids and assistance for individuals with disabilities.<sup>29</sup> States should provide information in plain language in a claimant’s preferred language (other than English), where possible.<sup>30</sup> In limited instances where providing information in a claimant’s preferred language is not possible, communications with workers should, at minimum, include a “Babel notice” alerting the claimant that the document contains vital information, and of how to access language services.<sup>31</sup> States should also affirmatively alert workers in plain language of alternate ways to access and provide information about the UI program.<sup>32</sup> Although these requirements are broader than plain language, the audience-centered and user-tested approach of plain language can help state UI agencies meet these requirements to ensure equitable access to UI.

### **Constitutional Due Process Requirements**

State UI agencies should also use plain language to help ensure that workers are provided with constitutionally required notice and opportunity to be heard. Under the 14<sup>th</sup> Amendment of the U.S. Constitution, state governments cannot deprive any person of property “without due process of law.”<sup>33</sup> Courts have found UI compensation to be a form of “property.”<sup>34</sup> The state must provide adequate notice of proposed actions that can impact a person’s property and an opportunity to be heard.<sup>35</sup> In *Mullane v. Central Hanover Bank & Trust Co. et al.*, the U.S. Supreme Court held that “[t]he notice must be of such nature as reasonably to convey the required information.”<sup>36</sup>

To meet constitutional requirements, the notice must be easy to understand. In a case considering the adequacy of Medicare notices, the Eastern District Court of New York found the notices to be constitutionally inadequate, in part because the language used was overly complex. The court explained,

“The language used is bureaucratic gobbledegook, jargon, double talk, a form of officialese, federalese and insurancese, and doublespeak. It does not qualify as English.”<sup>37</sup> State UI agencies should inform workers of what action the state intends to take and the reasons for that action.<sup>38</sup> Without adequate notice, workers cannot have a meaningful opportunity to be heard, because they do not know what action is being taken against them or why.<sup>39</sup>

Workers regularly challenge the constitutional adequacy of UI notices.<sup>40</sup> For example, workers in California challenged the UI determination notices issued by the California Employment Development Department (EDD). In the proposed case settlement, the EDD is required to provide overpayment notices at an eighth grade reading level and in “plain language.”<sup>41</sup>

## **Claimant and Administrative Benefits of Plain Language**

When state UI agencies fail to provide information or ask questions to workers using plain language, it can lead to improper denials and burdens on both workers and state UI agencies. A worker cannot tell if a word has a special meaning under UI law unless the state UI agency explains that in a form or a notice. The state UI agency also cannot tell a confused worker from an ineligible one. So, a worker may be denied benefits because they misunderstood the question being asked. This can lead to preventable adjudication and appeals.

For example, consider a state UI agency that asks a worker on a UI application if the worker is able and available for work.<sup>42</sup> The terms “able” and “available” are common points of confusion for workers, as the terms have a special meaning under UI law that is not obvious to workers unless the state UI agency provides further explanation.<sup>43</sup> Consider if the state UI agency does not provide additional explanation of these terms on the application. The result is that the worker will answer based on their own understanding of the meaning of the terms able and available. The worker may think they are not able to work if they have minor physical limitations on the work they can perform. Or the worker may think they are not available for work if their child came home early from school one day that week.<sup>44</sup> The worker will then record that they were neither able nor available. This will lead the state to deny the worker benefits, even though the worker actually was able and available under UI law.

The state UI agency could improve the question with plain language tools. For example, the state UI agency could rephrase the question to use simple language, rather than using legal terms of art. Or the state UI agency could provide additional assistance to help the worker understand what “able and available” means in the UI context. As the U.S. Department of Labor details, “Providing claimants with helper text, videos, and further information about specific UI terms may help some claimants answer appropriately.”<sup>45</sup>

When state UI agencies fail to use plain language tools, workers may not understand the meaning of questions and notices. This can cause preventable additional costly and burdensome steps, such as fact-finding interviews and questionnaires, appeals, improper denials, and improper payments.<sup>46</sup> As the U.S. Department of Labor explains:

“[I]f agencies can re-write their correspondence to workers in plain language and ensure applicable translation services during all stages of the claimant journey, fewer misunderstandings may occur, thereby reducing the number of claims requiring fact finding and further adjudication. It’s important to apply plain language review to important documents and to clearly explain the requirements of the program, why the agency needs the information, how the requested

information may affect the claim, and how failing to respond to the request for information may result in a delay or denial of benefits.”<sup>47</sup>

Plain language is essential to improving workers’ experience with and ability to access the UI program. In 2021, President Biden signed an executive order “Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government.”<sup>48</sup> The order, in part, required federal agencies to determine how to “improve transparency and accessibility through their compliance with the Plain Writing Act of 2010.”<sup>49</sup> In response, the U.S. Department of Labor developed “Customer Experience Principles” for unemployment insurance.<sup>50</sup> The principles detail that UI programs should “[p]rovide instructions and information in plain language.”<sup>51</sup> In conjunction with this work, the U.S. Department of Labor provided direct assistance to states and published a broad array of [plain language resources](#).

Many states received American Rescue Plan Act grants to improve their UI claimant communications with the use of plain language.<sup>52</sup> Montana used funding to improve its application and claims forms to ensure that they were more accessible for workers with lower educational attainment.<sup>53</sup> Montana’s unemployment director summarized the need for plain language in UI communications:<sup>54</sup> “There was a big problem with ‘I got a letter, what the heck does this mean?’ [ . . . ] The program as a whole struggled to communicate in layman’s terms with customers. Every work unit in the Department has been impacted by plain language in a positive way.”<sup>55</sup>

## Components of Plain Language

There are numerous approaches to plain language. Perhaps the most referenced are the federal guidelines compiled by the Plain Language Action and Information Network (PLAIN).<sup>56</sup> PLAIN is made up of a group of federal employees.<sup>57</sup> Detailed below are a few key steps from PLAIN’s plain language guidance that state UI agencies can use to improve communications.

### Step 1: Consider Your Audience

PLAIN advises starting the writing process by considering the audience for a writing. The author should determine:

- **Who** the audience is;
- **What** the audience needs to know (including anticipating any questions they may have); and
- **How** to share the information with the audience, with consideration for the reading level and existing knowledge of the audience.

#### Example: Overpayment Notices

As an example, consider a notice of overpayment from a state UI agency.

**Who:** The primary audience for the letter will be UI workers.

**What:** To determine *what* information UI workers need to know, state UI agencies should consider federal and state law and guidance, as well as the specific needs of workers.

- **Federal Law and Guidance:** State UI agencies should start by considering general legal requirements for communications with workers, some of which are discussed above. The specific information needed by UI workers and required by U.S. Department of Labor varies based on the subject of the communication. For the case of an overpayment and any determination that may adversely impact a claimant's right to benefits, the U.S. Department of Labor requires that state UI agencies provide "sufficient information to enable [the claimant] to understand the determinations, the reasons therefor, and their rights to protest, request reconsideration, or appeal."<sup>58</sup> ETA Handbook 301 further details the basic components of the communication.<sup>59</sup> The U.S. Department of Labor also has issued specific guidance on the information that state UI agencies must share with workers about determinations regarding overpayments, overpayment waivers, and overpayments resulting from alleged fraud.<sup>60</sup>
- **Further Information Needed by Workers:** State UI agencies should not only include information required by law and U.S. Department of Labor guidance but also consider what further information workers will need and anticipate questions UI workers will have. For example, with a notice of overpayment, a claimant will need to know the amount of the overpayment and the type of overpayment. Workers will also need to know what it means to appeal the overpayment decision; does that appeal the overpayment amount or the underlying denial of entitlement that led to the overpayment?
- **Particular Needs:** State UI agencies should also consider the particular needs of a diverse group of workers. The U.S. Department of Labor provides guidance on how to identify common areas of confusion and to meet the needs of workers in its "Equitable Access Toolkit."<sup>61</sup> State UI agencies can start by reviewing existing data. For example, a state UI agency can review its call center data to identify common causes of claimant confusion.<sup>62</sup> State UI agencies can also review issues that are often subject to adjudication or appeal to see if improved communication could prevent the issues.<sup>63</sup> State UI agencies should consult with community partners, such as claimant advocacy groups, to learn more about the informational needs of underserved claimants.<sup>64</sup>

**How:** Along with determining *what* information to share with workers, state UI agencies must determine *how* to share information with workers. State UI agencies should start by reviewing existing law and guidance.

- **In Writing:** In the case of overpayment determinations, state UI agencies must share the information via *written* determinations.<sup>65</sup> U.S. Department of Labor guidance requires that correspondence be "written to accommodate different literacy levels."<sup>66</sup> Generally, writings should be at a seventh or eighth grade reading level.<sup>67</sup> Communications should be in the claimant's preferred language.<sup>68</sup> If the claimant is notified of an overpayment after their claim for benefits has concluded, the state UI agency should consider sending a text message to notify the claimant of why they are being contacted.<sup>69</sup>
- **Targeted:** State UI agencies should ensure methods of communication are targeted to the needs of a diverse group of workers. To do so, states should again review the U.S. Department of Labor's Equitable Access Toolkit.<sup>70</sup> Additionally, the U.S. Department of Labor has identified groups of workers with distinct needs, such as workers with limited technological access or understanding, workers with disabilities, older workers, and workers with limited English proficiency.<sup>71</sup> State UI agencies should ensure that the method of communication conforms to the needs of these populations. For example, workers with limited technological access or proficiency may need the state UI agency to provide information via regular mail rather than simply uploading the information to the claimant's UI claim portal. Likewise, where possible, communications to workers with limited English proficiency should be



provided in plain language in the workers' preferred language.<sup>72</sup> To ensure that workers with disabilities have equitable access to information, state UI agencies should clearly display information about the availability of auxiliary aids and services.<sup>73</sup> States should also revise their methods of communication based on user-testing discussed below in Step 4.

## **Step 2: Organize**

After considering the audience for a writing, PLAIN next advises authors to consider how they organize the information.<sup>74</sup> Information should be organized in a logical way that allows the audience to quickly understand what is being communicated.<sup>75</sup> Here again, the author should anticipate what questions the audience will have, and address those questions as they arise within the writing.<sup>76</sup> Authors can use headers to visually indicate to readers how the information is organized.<sup>77</sup>

## **Step 3: Write**

Once the writing is organized, PLAIN makes numerous recommendations about the writing itself, including guidance for word choice, sentence and paragraph structure, and formatting.<sup>78</sup> There are too many recommendations to include here. Generally, PLAIN recommends that authors simplify their writings, including by using simple words,<sup>79</sup> omitting unnecessary words,<sup>80</sup> writing short sentences,<sup>81</sup> and avoiding long paragraphs.<sup>82</sup> PLAIN also recommends that authors avoid legal jargon.<sup>83</sup>

State UI agencies have a difficult time complying with the latter recommendation. UI programs regularly use “terms of art” that have different meanings in everyday life than in UI law. Even the term “unemployed” has a distinct meaning in UI law. For example, a worker who owns a limited liability company may have no clients, no work, and no revenue, but many state UI agencies would not consider that worker to be “unemployed.”

### **UI Lexicon Project**

Fortunately for state UI agencies, the U.S. Department of Labor conducted the UI Lexicon Project. The Project reviewed existing state UI agency definitions.<sup>84</sup> It found that definitions were both difficult to find and difficult to understand.<sup>85</sup> The Project published an [online resource](#) with a list of proposed terms with sample meanings.<sup>86</sup> When legal terms of art must be used, state UI agencies should include the Lexicon Project definitions to ensure that claimants understand the meaning of the terms.

## **Step 4: Test**

After the writing is complete, PLAIN recommends that authors test their writing with the intended audience. For state UI agencies, this is also a recommendation of federal law and guidance.

The U.S. Department of Labor also encourages testing to ensure equitable access to UI. After ensuring notices and communications are provided in plain language, the U.S. Department of Labor encourages user-testing.<sup>87</sup> “States should consider external user testing with diverse users who may experience [ . . . ] access challenges [ . . . ] to learn how claimants understand UI forms, jargon, and required next steps.”<sup>88</sup> The U.S. Department of Labor advises states to connect with claimant advocacy groups to recruit a diverse group of workers to test understanding and accessibility of UI communications.<sup>89</sup> It advises, “User testing could involve techniques such as usability tests, interviews, focus groups, and testing different versions of text with different segments of users (“A/B testing”).”<sup>90</sup> Under the Workforce Innovation and

Opportunity Act (WIOA), states are also required to provide equitable access to WIOA-funded programs.<sup>91</sup> States are expressly encouraged to consult with community service groups about ways to “improve its outreach and service to various populations.”<sup>92</sup> This too could include user-testing.

## Plain Language Resources

### General Plain Language Resources

- [PlainLanguage.Gov](#): This website, maintained by PLAIN, details the history of plain language, legal requirements, and plain language guidelines.
- Digital Government Hub: [Plain Language Is for Everyone, Even Experts](#)

### UI-Specific Plain Language Resources

- U.S. Department of Labor has created several plain language resources for state UI agencies, including:
  - [Plain Language Portfolio](#)
  - [Our Plain Language Approach and Resources](#)
  - [Use Plain Language for Unemployment Applications](#)
  - [Use Plain Language for Claimant Notices](#)
  - [Plain Language Repository](#)
- U.S. Digital Response: [Language Access for Unemployment Insurance](#)

### Equitable Access to UI Resources

- U.S. Department of Labor: [Equitable Access Toolkit](#)
- Beeck Center (Georgetown University): [Promising Practices to Increase Equitable Access in Unemployment Insurance](#)
- U.S. Department of Labor: [Insights and Successes: American Rescue Plan Act Investments in Unemployment Insurance Modernization](#)

### U.S. Department of Labor Guidance

- TEN 18-24: [Customer Experience Checklist and Resources for Unemployment Insurance Programs](#)
- UIPL 01-24: [Equitable Access in the Unemployment Insurance \(UI\) Program](#)
- UIPL 02-16: [State Responsibilities for Ensuring Access to Unemployment Insurance Benefits](#)
- UIPL 16-24: [Additional Planning Guidance for the Fiscal Year \(FY\) 2025 Unemployment Insurance \(UI\) State Quality Service Plan \(SQSP\)](#)



## About NELP

Founded in 1969, the National Employment Law Project (NELP) is a nonprofit advocacy organization dedicated to building a just and inclusive economy where all workers have expansive rights and thrive in good jobs. Together with local, state, and national partners, NELP advances its mission through transformative legal and policy solutions, research, capacity-building, and communications. NELP is the leading national nonprofit working at the federal, state, and local levels to create a good-jobs economy. Learn more at [www.nelp.org](http://www.nelp.org).

## Endnotes

- <sup>1</sup> 42 U.S.C.A. § 503 (a) (1); U.S. Dep't of Labor, Unemployment Insurance Program Letter 01-24, *Equitable Access in the Unemployment Insurance Program* 4 (Nov. 8, 2023), <https://www.dol.gov/agencies/eta/advisories/uipl-01-24> (hereinafter UIPL 01-24).
- <sup>2</sup> Kali Jensen, *The Plain English Movement's Shifting Goals*, 13 J. Gender Race & Just. 807 (2010).
- <sup>3</sup> PLAIN WRITING ACT OF 2010, PL 111-274 §3 (3), 124 Stat 2861 (Codified as a note under 5 U.S.C. § 301).
- <sup>4</sup> *Federal Plain Language Guidelines* 1 PlainLanguage.Gov (Mar. 2011), <https://www.plainlanguage.gov/media/FederalPLGuidelines.pdf> (hereinafter Plain Language Guidelines).
- <sup>5</sup> U.S. Department of Labor, *Use Plain Language for Unemployment Applications*, <https://www.dol.gov/agencies/eta/ui-modernization/use-plain-language/unemployment-applications>.
- <sup>6</sup> Rachel Stabler, *"What We've Got Here Is Failure to Communicate": The Plain Writing Act of 2010*, 40 J. Legis. 280, 281 (2013).
- <sup>7</sup> *Id.*, at 283.
- <sup>8</sup> *Id.*, at 282-83.
- <sup>9</sup> Exec. Order No. 12044 (Mar. 23, 1978), <https://www.presidency.ucsb.edu/documents/executive-order-12044-improving-government-regulations>.
- <sup>10</sup> *Id.*
- <sup>11</sup> Stabler, *supra* note 6, at 283.
- <sup>12</sup> Exec. Order No. 12866 (Sept. 30, 1993), <https://www.presidency.ucsb.edu/documents/executive-order-12866-regulatory-planning-and-review>.
- <sup>13</sup> Stabler, *supra* note 6, at 284.
- <sup>14</sup> PLAIN WRITING ACT OF 2010, PL 111-274, October 13, 2010, 124 Stat 2861 §2.
- <sup>15</sup> *Id.*, at §4 (b).
- <sup>16</sup> Michael A. Blasie, *Regulating Plain Language*, 2023 Wis. L. Rev. 687, 702 (2023).
- <sup>17</sup> See Wash. Rev. Code Ann. § 50.12.365 (2021); Or. Rev. Stat. Ann. § 657.260 (1985); Va. Code § 60.2-619 (C) (2024; effective July 1, 2025).
- <sup>18</sup> 42 U.S.C.A. § 503 (a) (1).
- <sup>19</sup> UIPL 01-24, at 4.
- <sup>20</sup> Equitable access was an important goal of the American Rescue Plan Act. 15 U.S.C.A. § 9034.
- <sup>21</sup> U.S. Dep't of Labor, Unemployment Insurance Program Letter 16-24, *Additional Planning Guidance for the Fiscal Year (FY) 2025 Unemployment Insurance (UI) State Quality Service Plan (SQSP)* 3 (July 22, 2024), <https://www.dol.gov/agencies/eta/advisories/uipl-no-16-24>.
- <sup>22</sup> UIPL 01-24, at 4.
- <sup>23</sup> *Id.*, at 12.
- <sup>24</sup> Bureau of Labor Statistics, *TED: The Economics Daily* (Oct. 1, 2019), <https://www.bls.gov/opub/ted/2019/most-unemployed-people-in-2018-did-not-apply-for-unemployment-insurance-benefits.htm>.
- <sup>25</sup> Eliza Forsythe & Hesong Yang, *Understanding Disparities in Unemployment Insurance Reciprocity* (Nov. 12, 2021) [https://publish.illinois.edu/elizaforsythe/files/2022/04/ForsytheYang\\_DOL.pdf](https://publish.illinois.edu/elizaforsythe/files/2022/04/ForsytheYang_DOL.pdf); See also Alix Gould-Worth & H. Luke Schaefer, *Unemployment Insurance Participation by Education and by Race and Ethnicity* Bureau of Labor Statistics

(Oct. 2012) <https://www.bls.gov/opub/mlr/2012/article/unemployment-insurance-participation-by-education-and-by-race-and-ethnicity.htm>.

<sup>26</sup> UIPL 01-24, at I-1.

<sup>27</sup> Amy Traub, Alexander Hertel-Fernandez, & Sanjay Pinto, *The Unemployed Worker Study* 7 NELP (Apr. 22, 2025), [The Unemployed Worker Study - National Employment Law Project](#).

<sup>28</sup> UIPL 01-24, at I-5.

<sup>29</sup> UIPL 01-24, at I-5.

<sup>30</sup> UIPL 01-24, at I-2.

<sup>31</sup> U.S. Dep't of Labor, Unemployment Insurance Program Letter 02-16, *State Responsibilities for Ensuring Access to Unemployment Insurance Benefits* 10 (Oct. 1, 2015), <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-02-16> (hereinafter UIPL 02-16); UIPL 01-24, at I-7. See also, U.S. Dep't of Labor, Unemployment Insurance Program Letter 30-11, *State Responsibilities Regarding Limited English Proficient (LEP) Individuals* (Sept. 16, 2011), <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-30-11>.

<sup>32</sup> UIPL 01-24, at 11.

<sup>33</sup> U.S. Const. amend. XIV, § 1.

<sup>34</sup> *Sherbert v. Verner*, 374 U.S. 398, 404–06 (1963).

<sup>35</sup> *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314–15 (1950).

<sup>36</sup> *Id.*, at 314.

<sup>37</sup> *David v. Heckler*, 591 F. Supp. 1033, 1043 (E.D.N.Y. 1984).

<sup>38</sup> Henry J. Friendly, "Some Kind of Hearing", 123 U. Pa. L. Rev. 1267, 1280 (1975). See also, *Goldberg v. Kelly*, 397 U.S. 254, 268–69 (1970) ("The opportunity to be heard must be tailored to the capacities and circumstances of those who are to be heard").

<sup>39</sup> See *David v. Heckler*, 591 F. Supp. 1033, 1043 (E.D.N.Y. 1984).

<sup>40</sup> *Shaw v. Valdez*, 819 F.2d 965, 969-70 (10th Cir. 1987) (finding a broad statement of ineligibility insufficient to provide notice to the worker of the issue to be considered at the hearing); *Calhoun v. Wackenhut Servs.*, 904 A.2d 343, 347 (D.C. 2006) (holding ambiguous written and oral information provided to a worker about his appeal rights was inadequate as a matter of law); *Cobo v. D.C. Dep't of Emp. Servs.*, 501 A.2d 1278, 1280 (D.C. 1985) (holding that the language of the notice was inadequate as both the worker's entitlement to benefits and time to appeal were ambiguous); *Alicea v. Bd. of Rev.*, 432 N.J. Super. 347, 353, 74 A.3d 1004, 1008 (App. Div. 2013) (finding a notice inadequate for only including some information in the worker's primary language); *Miller v. Indiana Dep't of Workforce Dev.*, 878 N.E.2d 346, 352-53 (Ind. Ct. App. 2007) (finding a notice stating the issue to be considered at the hearing was "[w]hether the Claimant was able, available, and making an effort to secure full-time work" did not adequately inform the worker that his discharge for misconduct was the subject of the hearing); *Silva v. Emp. Appeal Bd.*, 547 N.W.2d 232, 235-36 (Iowa Ct. App. 1996) (finding notice insufficient for failing to notify the worker of all issues to be considered at the hearing); *Weatherly Lab's v. Adm'r, Off. of Emp. Sec.*, 94-00317 (La. App. 3 Cir. 11/2/94), 649 So. 2d 623, 625 (1994) (holding that misleading and false information in a notice to an employer was constitutionally inadequate); *Oriscar v. A Accu Fla., Inc.*, 23 Fla. L. Weekly D1978, 715 So. 2d 1150, 1151 (Fla. Dist. Ct. App. 1998) (holding an overpayment notice inadequate as it listed a new name for the worker's prior employer); *Olan v. Ross*, 60 A.D.2d 113, 116, 400 N.Y.S.2d 379, 381 (1977) (finding that notices of claim reopening must notify the worker of the specific points to be reconsidered).

<sup>41</sup> Legal Aid at Work, *Major Settlement to Improve EDD's Broken System for Unemployment Benefits* (Mar. 27, 2025), [Major Settlement to Improve EDD's Broken Notification System for Unemployment Benefits](#). Legal Aid at Work, *Proposed Settlement in Okamura v. Employment Development Department*, [Proposed Order Granting Mot-for-Settlement-Approval-and-Entry-of-Judgment-03-26-2025-1834-01.pdf](#) (last visited Mar. 27, 2025).

<sup>42</sup> UIPL 01-24, at I-4.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> U.S. Dep't of Labor, Training and Employment Notice 18-24, *Customer Experience Checklist and Resources for Unemployment Insurance Programs* 4 (July 22, 2024), <https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEN/2024/TEN%2018-24/TEN%2018-24.pdf>.

- <sup>47</sup> UIPL 01-24, at I-5.
- <sup>48</sup> Exec. Order No. 14058, 86 Fed. Reg. 239, (Dec. 13, 2021).
- <sup>49</sup> *Id.*
- <sup>50</sup> Sylvie Williams, *Customer Experience Principles* U.S. Dep't of Labor (June 30, 2023), <https://www.dol.gov/agencies/eta/ui-modernization/customer-experience/cx-principles>.
- <sup>51</sup> *Id.*
- <sup>52</sup> U.S. Dep't of Labor, *Insights and Successes: American Rescue Plan Act Investments in Unemployment Insurance Modernization* 40 (2024), <https://www.dol.gov/sites/dolgov/files/ETA/ui-modernization/ARPA%20Investments%20in%20Unemployment%20Insurance%20Modernization.pdf>.
- <sup>53</sup> *Id.*, at 44.
- <sup>54</sup> *Id.*
- <sup>55</sup> *Id.*
- <sup>56</sup> Plain Language Guidelines, at i.
- <sup>57</sup> *Id.*
- <sup>58</sup> 20 C.F.R. § 602 app. A 6013 (C)(2) (2006).
- <sup>59</sup> U.S. Dep't of Labor, *ET Handbook No. 301* V16-17 (July 29, 2005), <https://www.dol.gov/agencies/eta/advisories/handbooks/et-handbook-no-301>.
- <sup>60</sup> See U.S. Dep't of Labor, Unemployment Insurance Program Letter 01-16, *Federal Requirements to Protect Individual Rights in State Unemployment Compensation Overpayment Prevention and Recovery Procedures* 3 (Oct. 1, 2015), <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-01-16>.
- <sup>61</sup> U.S. Department of Labor, *Equitable Access Toolkit* 12 (2023), available at: <https://digitalgovernmenthub.org/library/unemployment-insurance-equitable-access-toolkit/> (hereinafter *Equitable Access Toolkit*).
- <sup>62</sup> *Id.*
- <sup>63</sup> *Id.*
- <sup>64</sup> *Id.*, at 9.
- <sup>65</sup> 20 C.F.R. § 602 app. A 6013 (C)(1)(c) (2006).
- <sup>66</sup> UIPL 01-24, at 6.
- <sup>67</sup> *Id.*
- <sup>68</sup> *Id.*, at I-2.
- <sup>69</sup> UIPL 01-24, at 21.
- <sup>70</sup> *Equitable Access Toolkit*, at 12.
- <sup>71</sup> See UIPL 01-24; UIPL 02-16.
- <sup>72</sup> UIPL 01-24, at I-2.
- <sup>73</sup> *Id.*, at I-5.
- <sup>74</sup> Plain Language Guidelines, at 5-16.
- <sup>75</sup> *Id.*, at 6.
- <sup>76</sup> *Id.*
- <sup>77</sup> *Id.*, at 11.
- <sup>78</sup> *Id.*, at 17-88.
- <sup>79</sup> *Id.*, at 36.
- <sup>80</sup> *Id.*, at 38.
- <sup>81</sup> *Id.*, at 50.
- <sup>82</sup> *Id.*, at 68-69.
- <sup>83</sup> *Id.*, at 46-47.
- <sup>84</sup> Kevin Parker, *The UI Lexicon Project: Defining Commonly Used UI Terms in Plain Language* U.S. Dep't of Labor (Feb. 8, 2023), <https://www.dol.gov/agencies/eta/ui-modernization/use-plain-language/ui-lexicon>.
- <sup>85</sup> *Id.*
- <sup>86</sup> U.S. Dep't of Labor, *The UI Lexicon*, <https://www.dol.gov/agencies/eta/ui-modernization/use-plain-language/ui-lexicon-resource> (last visited Apr. 7, 2025).
- <sup>87</sup> UIPL 01-24, at I-1.

<sup>88</sup> *Id.*, at 20.

<sup>89</sup> Equitable Access Toolkit, at 12.

<sup>90</sup> *Id.*

<sup>91</sup> 29 CFR 38.40 (2025).

<sup>92</sup> *Id.*

© 2025 National Employment Law Project. This report is covered by the Creative Commons “Attribution-NonCommercial-NoDerivs” license fee (see <http://creativecommons.org/licenses>). For further inquiries, please contact NELP ([nelp@nelp.org](mailto:nelp@nelp.org)).