

COVID-19: Unemployment Insurance

Frequently Asked Questions for Educational Employees and Employers

Under federal law, educational employees are not eligible for unemployment insurance (UI) benefits during traditional break periods in situations where they have “reasonable assurance” that they will continue working after the break.

However, if educational employees do not have “reasonable assurance” that they will continue working after the break, then – depending on the situation – they may be able to use those wages for their UI claim.

Below is a set of questions and answers pertaining to reasonable assurance applicability for the summer 2020 break.

What is “reasonable assurance” for educational employees?

Under [state law](#) and [federal guidance](#), educational employees may have “reasonable assurance” if they have a contract that they will continue working with that educational institution after the break.

However, if they do not have “reasonable assurance” with that educational institution that they will continue working after the break, then – depending on the situation – they may be eligible to use those wages to draw UI benefits during the break period.

What eligibility test does the Employment Security Department conduct to determine whether an educational employee has “reasonable assurance”?

There is a three-part “test” that is used to assess the work after the break period to determine whether educational employees may be able to use the wages for their UI claim:

- **Test One:** Does the work meet three prerequisites?
- **Test Two:** Does the work constitute a contract?
- **Test Three:** Is there reasonable assurance the work will be available after the break?

What is the distinction between a “professional” and “non-professional” educational employee?

A “professional” educational employee is someone who performs services primarily in an instructional, research or principal administrative capacity, such as a

classroom teacher, research professor, or high school vice principal. A “non-professional” is someone who works a job that does not fit into the “professional” category, such as a bus driver, janitor, or guidance counselor.

What are the three prerequisites?

For there to be “reasonable assurance” for any educational employee, professional and non-professional, three prerequisites must be met. First, there must be an offer of work for the following school year. Second, the offer must be in the same capacity, meaning a professional employee is being offered a job as a professional and a non-professional employee is offered a job as a non-professional. Third, next year’s job must pay the employee at least 90 percent of the wages as the employee earned from this year’s job.

During the summer of 2020, how will the “reasonable assurance” eligibility test be applied to a “professional” educational employee?

Eligibility decisions are made weekly on a case-by-case basis. Professional employees whose employers have been able to provide a legally enforceable and non-contingent contract that covers an academic year or annual period will be deemed to have reasonable assurance of employment with that educational institution in the 2020-21 school year and will not be eligible to use the wages earned with those employers to draw UI benefits. Professional educational employees not deemed to have a legally enforceable and non-contingent contract will be subject to the requirements described below during the summer of 2020.

During the summer of 2020, how will the “reasonable assurance” eligibility test be applied to a “non-professional” educational employee?

Eligibility decisions are made weekly on a case-by-case basis. The Office of Superintendent of Public Instruction (OSPI) [Reopening Washington Schools 2020 District Planning Guide](#) provides that school districts are required to adopt reopening plans through local board resolution and those plans must be on file with OSPI within two weeks before the school district starts school in the fall. Until a school district files such a plan, the district will not be able to demonstrate that it is “highly likely” that a non-professional employee will have employment in the fall. Without that “reasonable assurance,” non-professional employees will be eligible for weekly UI benefits if otherwise qualified. Individuals must be able and available for work that can be performed while following recommendations from the state Department of Health during each week they claim.

During the summer of 2020, how will the “reasonable assurance” eligibility test be applied to substitute teachers?

Eligibility decisions are made weekly on a case-by-case basis. Unless a substitute teacher has a legally enforceable and non-contingent contract that covers an academic year or annual period, that teacher, like a “non-professional” educational employee, will be eligible for UI benefits if otherwise qualified until the school district(s) for which they are on a substitute list has a reopening plan on file with OSPI that demonstrates it is highly likely that the employee will have employment in the fall. Individuals must be able and available for work that can be performed while following recommendations from the state Department of Health during each week they claim.

During the summer of 2020, how will the “reasonable assurance” eligibility test be applied to other professional educational employees who do not have legally enforceable and non-contingent contracts?

Eligibility decisions are made weekly on a case-by-case basis. Other professional educational employees who do not have legally enforceable and non-contingent contracts that cover an academic year or annual period, will, like “non-professional” educational employees, be eligible for UI benefits if otherwise qualified until the school district(s) has a reopening plan on file with OSPI that demonstrates it is highly likely that the employee will have employment in the fall.

Individuals must be able and available for work that can be performed while following recommendations from the state Department of Health during each week they claim.

During the summer of 2020, how will the “reasonable assurance” eligibility test be applied to adjunct professors?

Eligibility decisions are made weekly on a case-by-case basis. Adjunct professors will be subject to the reasonable assurance test during the summer of 2020.

If an educational employee does not qualify for state UI benefits, can they qualify for Pandemic Unemployment Assistance (PUA)?

If the only reason an educational employee is unemployed is because of summer break, then the employee is not eligible for PUA. Such individuals who are denied state UI benefits but earned wages

from non-educational employment and the reason they are unavailable for work is because they are directly impacted by COVID-19, may be eligible for PUA based on their non-educational employment. Individuals are determined to be directly impacted by COVID-19 and qualify for PUA if:

1. The individual’s place of employment is closed as a direct result of the COVID-19 public health emergency;
2. A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
3. The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
4. The individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
5. The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
6. The individual quit their job as a direct result of COVID-19;
7. The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
8. A member of the individual’s household has been diagnosed with COVID-19;
9. The individual is providing care for a family member or a member of the individual’s household who has been diagnosed with COVID-19; or
10. The individual has become the breadwinner or major support for a household because the head of the household died as a direct result of COVID-19.

Will school districts be charged for UI benefits provided to educational employees?

School districts are reimbursable employers which reimburse the Employment Security Department for UI benefits actually paid to separated employees instead of paying unemployment taxes. The CARES Act provides federal payments to states to relieve reimbursable employers of 50 percent of the costs they incur through December 31, 2020 to pay UI benefits. Per U.S. Department of Labor guidance, the Employment Security Department must receive payment for 100 percent of the benefit charges owed by a reimbursable employer to then provide the employer the 50 percent reimbursement from the U.S. Department of Labor.

For more detailed information about reasonable assurance eligibility, download the [Unemployment Insurance for Educational Employees Fact Sheet](#).