

## Unemployment Insurance for Educational Employees

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.

### Recent change

In December 2016, the U.S. Department of Labor issued guidance regarding reasonable assurance. To bring state law into compliance, the Washington legislature passed a bill that went into effect October 1, 2018.

### Definition of educational employees

The term “educational employees” includes anyone who works for any level of educational institution, including K-12 and higher education. This includes, but is not limited to, teachers, administrators, principals, librarians, bus drivers, custodians, and professors.

### Eligibility test

As a result of this change, there is a three-part test to determine whether educational employees may be able to use the wages for their UI claim:

- Test One: Does the situation meet the prerequisites?
- Test Two: Is there a contract?
- Test Three: Is there reasonable assurance?

### Test One: Does the situation meet the prerequisites?

- Is there a genuine written, oral or implied offer by someone authorized to offer employment?
- Is the future employment in the same capacity as the employee’s current employment?
- Is compensation at least 90% of the current job?

If the answer to **any** of the questions is **no**, the employee may be able to use the wages from educational employment to for their UI claim. If the answer to **all** of the questions is **yes**, move to Test Two.

### Test Two: Does the employee have a contract?

- Is the contract legally enforceable?
- Is the contract non-contingent? For example:
  - Is there funding for the class  
or
  - Does the decision for whether to offer the class depend on how many students enroll?
- Is the contract for an academic year or an annual period?

If the answer to **any** of the questions is **no**, move to Test Three. If the answer to **all** of the three test questions is **yes**, the employee cannot use the wages from educational employment for their UI claim.

### Test Three: Does the employee have reasonable assurance?

- Are the contingencies within the employer’s control? Is it highly probable that **all** of the contingencies will be met?
- Under the totality of the circumstances, is it highly probable there will be a job available for the employee after the break?

If the answer to **any** of the questions is **no**, the employee may be able to use wages from educational employment to for their UI claim. If the answer to **all** of the questions is **yes**, the employee cannot do this.



Questions?  
Please call the Claims Center:  
800-318-6022  
Monday – Friday from 8 a.m. – 4 p.m.



### **Tenured employees**

Educational employees who have tenure automatically have reasonable assurance, so they cannot use their educational wages for their UI claim.

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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.

### **Multiple employers**

In situations where educational employees have multiple employers, they cannot use wages from employers from whom they do have reasonable assurance for their UI claim. However, they can use wages from employers from whom they do not have reasonable assurance.

### **“Voluntary quit” situations**

If employees have reasonable assurance but quit voluntarily, they may or may not be able to use the wages for their UI claim, depending on why they quit.

### **Additional information**

Please visit the Unemployment Insurance for Educational Employees page at <https://esd.wa.gov/unemployment/educational-employees> for links to the following additional information:

- Federal guidance
- Washington state laws: RCW 50.44.050, 50.44.053, 50.44.055
- Washington state regulations
- How to apply for UI benefits