

Unemployment Insurance

Updated Information on Substitute Teacher UI and PUA Eligibility

Recently, the U.S. Department of Labor provided additional guidance regarding whether substitute teachers have “**reasonable assurance of continued employment**” if a school is “closed” due to COVID-19 but operating on a virtual or hybrid basis. This guidance relates to both UI and PUA eligibility for substitute teachers.

Q: What is reasonable assurance?

“Reasonable assurance” is a conclusion based on whether a person has acknowledgment they will perform services for the school system again for the academic year. Reasonable assurance may include a contract, a written and/or verbal offer, etc.

Q: What factors are considered when determining whether reasonable assurance exists?

This is a very fact specific inquiry. A determination must be made at the time of filing regarding whether reasonable assurance exists for employment during the school year based on information provided by the claimant and the employing educational institution or school system. The “availability of a job” is a critical factor that is considered, as well as whether the employment offer contains contingencies and consideration of the totality of the circumstances.

Q: If I do not have reasonable assurance of a return to work, am I eligible to continue UI benefits?

Yes. If the school system has not provided the substitute teacher with reasonable assurance of returning to work following a regularly scheduled break, that employee is eligible to continue UI benefits.

Q: If I am denied, is there an appeal process?

Yes. School employee non-separation issues will be investigated to determine when the offer of reasonable assurance was provided and an appealable determination will be rendered.

Q: When a substitute teacher is the primary caregiver of a student or students and their school districts are (a) fully online, (b) partially online and partially in-person (hybrid), or (c) allow for the option of full time in-person instruction, is that substitute teacher eligible for PUA?

If the **school is fully online**, the school is considered closed and the substitute teacher may be eligible for PUA if he or she is not receiving paid leave benefits, is not eligible for regular UC, EB, and PEUC, and the student(s) at home requires ongoing attention that makes working from home not possible. If the **school is offering hybrid instruction**, the school is considered closed and the substitute teacher may be eligible for PUA under the conditions discussed above for online school. If the school is open, meaning offering the option of full time in-person instruction, the substitute teacher will not be eligible for PUA unless he or she meets another listed COVID-19 related reason.

Q: Can changing circumstances affect a reasonable assurance determination?

Yes. A claimant who was originally determined to have a reasonable assurance of employment may later be determined to not have a reasonable assurance. For example, in the event a decision is later made by the employer that the educational institution or school system will not reopen as regularly scheduled, or that a specific individual does not have a reasonable assurance of employment in the same or similar capacity due to budget cuts, declining enrollment, etc., OUI must re-assess the individual's entitlement to benefits. Similarly, an employee initially determined to not have a reasonable assurance can subsequently be found to have a reasonable assurance if an offer of employment is received.

References: UIPL 16-20, Change 1; UIPL 16-20, Change 3; UIPL 5-17