

The Unemployment Insurance (UI) program has special provisions that apply to people who work for educational institutions. These provisions generally restrict employees from receiving UI benefits during school breaks such as spring and summer break. Federal law gives states little flexibility with how these laws apply to employees who perform instructional, research or principal administrative work (“instructional work”), but gives some more flexibility with how they apply to people who perform other types of services (i.e. bus drivers, janitorial workers, school nurses).

In 2016, Senate Bill (SB) 1534 passed which said that for employees who did not perform instructional work, if they voluntarily left their job but had good cause for doing so, they were not precluded from getting UI benefits by these special school recess provisions. SB 1534 (2016) also provided that if the U.S. Department of Labor (U.S. DOL) notified Oregon that this was inconsistent with federal law, it would not be in effect. This is to avoid the potential loss to Oregon employers of tax credits they receive against their Federal Unemployment Tax Act (FUTA) payroll tax obligations totaling approximately \$500 million per year and the potential loss of federal funding for administering the UI program in Oregon.

Although SB 1534 (2016) would have become effective on March 3, 2016, the Oregon Employment Department received notice from the U.S. DOL on February 29, 2016 that SB 1534 did not meet federal guidelines. Accordingly, SB 1534 did not become effective. To avoid having language in the statutes that was not in effect, creating potential confusion for the public, the Employment Department introduced Senate Bill (SB) 42 for the 2017 legislative session. SB 42 would reverse the substantive provisions of SB 1534 (2016).

In late December, 2016, the U.S. DOL issued new guidance, [Unemployment Insurance Program Letter No. 5-17](#), to all states regarding school recess laws. This new guidance now not only permits states to make the changes made by SB 1534 (2016), but requires that they do so. It also requires that this change (letting people who quit their jobs for good reasons receive UI benefits during school breaks) applies not just to the people covered by SB 1534 (2016), but also to people who perform instructional work.

While this means the policy change addressed in SB 1534 (2016) is now not just permissible but required, it leaves statutory language that can create confusion for the public. SB 1534 addressed only educational employees who do not perform instructional work, where federal law now requires that it apply to all employees of educational institutions. Statutory authority is not required to implement the recent guidance from the U.S. DOL; the Employment Department can make this change through administrative rule.

To remove confusion, the Employment Department is continuing with the removal of the substantive language of SB 1534 from statute and, to implement the new federal requirements, through administrative rule has changed the eligibility requirements for unemployment insurance benefits for employees of educational institutions. This is a temporary rule that applies to the narrow group of individuals who work for educational institutions and voluntarily quit for good cause. The timing of this change will ensure that individuals who qualify for benefits under the new federal requirements can take advantage of the change prior to any upcoming break or school recess period such as spring break or summer recess.

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