

## School Employees in Oregon Frequently Asked Questions

### 1. Who is considered a school employee?

For the purposes of unemployment insurance benefits, a school employee is someone who works for a public or private school.

### 2. What is an academic year?

An academic year is a 12 month period separated by breaks in which schools, their programs, or their locations usually provide courses of study.

### 3. What is a break period?

Break periods are time frames within an academic year when school employees may not be scheduled to work. These may differ from institution to institution but can be based on the usual holidays or vacation periods, or recesses between terms.

### 4. What is the difference between breaks?

A holiday or vacation period is a time frame within an academic term when employees do not usually work. A break between terms is a break or recess period between defined academic terms or years. The difference in types of break periods can affect your eligibility for unemployment insurance benefits.

### 5. What is the difference between “Professional” and “Nonprofessional” school employees?

Oregon’s laws relating to unemployment insurance for school employees follow the federal guidelines. “Professional” employees work in instructional, research or principal administrative roles. Those who work for a school performing any other job are considered “Nonprofessional” employees. The duties the employee performs define their role, not their job title.

### 6. Are “Professionals” and “Nonprofessionals” treated differently with respect to unemployment insurance benefits?

Yes, if someone has an agreement to work in a “Professional” role from term to term whether one term follows the next, they may have reasonable assurance. For individuals working in a “Nonprofessional” role, they only have reasonable assurance if they have an agreement to work if one term follows the next.

### 7. Are school employees eligible for retroactive unemployment insurance benefits?

School employees who work in a “Nonprofessional” roles can be paid retroactive unemployment insurance benefits if they lose reasonable assurance and they:

- 1) Filed a new unemployment insurance claim before they find out they do not have reasonable assurance;
- 2) Filed weekly unemployment insurance claims for every week they wished to claim unemployment insurance benefits and met the standard eligibility requirements for unemployment insurance benefits; and
- 3) Let the department know when they receive confirmation they will not be returning to work.

However, someone employed in a “Professional” role may not receive retroactive payments. If they lose reasonable assurance during a break, they may only be eligible to begin receiving benefits from that point forward.

### 8. What is reasonable assurance?

“Reasonable assurance” means whether it is likely you will be returning to work for a school after a break. To have reasonable assurance, the pay for the work cannot be less than 90% of the amount you earned in the prior year or term (not including the benefits your employer paid you) and is based on either:

- 1) A contract that is an agreement that can be enforced, does not have any contingencies, and which provides wages for a year; or
- 2) An offer of work for the next academic year or term.

If you do not have a contract but you receive an offer of work:

- a) It can be written, oral, or implied as long as it was made by someone with the authority to offer you a job;
- b) It must be in the same or similar role as the work you did in the prior year or term;
- c) It must not have **contingencies within the employer’s control** but the offer may have contingencies that are outside of your employer's control if it is very likely they will be met; and
- d) **The totality of circumstances** demonstrate it is very likely there will be a job for you in the next academic term or year.

### **9. What are contingencies within the employer’s control?**

These include, but are not limited to, the following:

- Course programming;
- Decisions on how to allocate available funding;
- Final course offerings;
- Program changes;
- Facility availability; and
- Offers that allow an employer to retract at their discretion.

Enrollment, funding, and seniority are not contingencies within the employers’ control.

### **10. What is the totality of circumstances?**

The criteria the department uses to determine if it is highly probable there is a job available for the school employee in the next academic year or term. The department considers the following factors including, but not limited to:

- Funding, including any appropriations;
- Enrollment;
- The nature of the course (required or optional, taught regularly or only sporadically);
- The employee’s seniority;
- Budgeting and assignment practices of the school;
- The number of offers made in relation to the number of potential teaching assignments; and
- The period of student registration.

### **11. How does reasonable assurance apply to substitute teachers?**

Reasonable assurance is the same for all individuals working for a school.

### **12. What requirements do school employees have to meet if they do not have reasonable assurance?**

School employees must meet all standard eligibility requirements, including being:

- 1) Able to work – individuals must be physically and mentally able to work.
- 2) Available for work – individuals must be available to perform work during all the days and hours normal for the work they typically perform. Being available for work also includes accepting full-time, part-time, and temporary work; accepting work at the normal rate of

pay for that type of work; and being willing and able to commute a reasonable distance for the type of work sought.

- 3) Actively seeking suitable work – individuals must make at least two direct employer contacts and perform three work seeking activities each week.

**13. What is suitable work for a school employee?**

The department looks at factors such as prior experience and training to determine if the work is suitable. We also compare the aspects of a job, such as the duties and pay, to similar work in the same area. If someone is not willing to accept suitable work, or turns down suitable work, they may be denied unemployment insurance benefits.

**14. What happens if you refuse an offer of work if you are a school employee?**

Anyone who refuses an offer of work prior to or during their unemployment insurance claim must report the refusal to the department. An investigation will take place to determine if the work offered was suitable. If the work was suitable, we will review whether the work was refused for reasons that most people would have also refused the work in the same circumstances.

**15. What can school employers do if they believe an employee may not be in compliance with any of the eligibility requirements for unemployment insurance?**

Employers have the right to report any instances they feel their employees may not be in compliance with unemployment insurance requirements.

For more information about the eligibility requirements for unemployment insurance benefits, please contact the Unemployment Insurance Contact Center at 877-345-3484 or visit our website at [employment.oregon.gov](http://employment.oregon.gov).