

STATE OF NEW YORK

5860

2025-2026 Regular Sessions

IN ASSEMBLY

February 24, 2025

Introduced by M. of A. VALDEZ -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to unemployment benefits based on employment with certain educational institutions; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of subdivision 10 of section 590 of
2 the labor law, as amended by chapter 734 of the laws of 2004, is amended
3 to read as follows:

4 Benefits based on professional employment with educational insti-
5 tutions, including the state university of New York, the city university
6 of New York and any public community colleges. If a claimant was
7 employed in an instructional, research, or principal administrative
8 capacity by an institution of education, including the state university
9 of New York, the city university of New York and any public community
10 colleges, or performed services in such an institution in such capacity
11 while employed by an educational service agency, the following shall
12 apply to any week commencing during the period between two successive
13 academic years or terms, or during a similar period between two regular
14 but not successive terms when the contract provides therefor instead,
15 provided the claimant has a contract to perform services, or there is a
16 reasonable assurance that the claimant will perform services, [~~services~~]
17 in such capacity for any such institution or institutions for both of
18 such academic years or such terms, and to any week commencing during an
19 established and customary vacation period or holiday recess, not between
20 such academic terms or years, provided the claimant performed services
21 for such institution immediately before such vacation period or holiday
22 recess and there is a reasonable assurance that the claimant will
23 perform any services described in this subdivision or subdivision eleven

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

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1 of this section in the period immediately following such vacation period
2 or holiday recess:

3 § 2. Subdivision 11 of section 590 of the labor law is REPEALED and a
4 new subdivision 11 is added to read as follows:

5 11. (a) For purposes of subdivision ten of this section, a "contract
6 to perform services" shall refer only to an enforceable, non-contingent
7 agreement that provides for compensation: for the entire academic year;
8 or on an annual basis, provided, however, that the contract terms
9 describing compensation need not be expressed specifically as an annual
10 salary. A "contract to perform services" must satisfy all of the
11 following conditions:

12 (1) The educational institution has made a written, oral or implied
13 offer of employment, which must be genuine, to the claimant for either
14 the second academic year or term or for the period following an estab-
15 lished or customary vacation period or holiday recess;

16 (2) Such offer was made by an employee of the educational institution
17 with authority to make such offer;

18 (3) Such offer is for services in the same capacity as the services
19 the claimant performed for the educational institution in the prior
20 academic year or term or in the period before an established or custom-
21 ary vacation period or holiday recess; and

22 (4) The wages or salary in such offer are in an amount not less than
23 ninety percent of the amount paid to the claimant during the first
24 academic year or term or during the period before an established or
25 customary vacation period or holiday recess.

26 (b) For purposes of subdivision ten of this section, a determination
27 that there is a "reasonable assurance" shall require meeting all of the
28 requirements set forth in subparagraphs one through four of paragraph
29 (a) of this subdivision and the following conditions:

30 (1) Such offer is not contingent on factors within the control of such
31 educational institution including, but not limited to, course program-
32 ming, allocation of available funding, program modifications, or facili-
33 ty availability; and

34 (2) Based on the totality of the circumstances, it is highly probable
35 that there is a job available for the claimant in the same capacity
36 during the second academic year or term or during the period following
37 an established or customary vacation period or holiday recess, includ-
38 ing, but not limited to, availability of funding, enrollment levels, the
39 claimant's level of seniority, budgeting and assignment practices at the
40 educational institution, the number of offers made in relation to the
41 number of potential assignments, the period of student registration, and
42 any other contingencies in the offer. When considering whether funding
43 shall be available, the following criteria shall be considered: (i) the
44 history of the educational institution's funding, and the likelihood
45 that the educational institution will receive such funding, for a
46 specific course; and (ii) the claimant's likelihood of receiving an
47 assignment.

48 (c) Reasonable assurance shall be determined on a case-by-case basis
49 by the total weight of evidence rather than the existence of any one
50 factor. Primary weight shall be given to the contingent nature of an
51 offer of employment based on enrollment, funding and program changes;
52 provided, however, that in any unemployment insurance proceeding, a
53 written letter from an educational institution to a claimant which makes
54 employment conditional shall not be prima facie evidence of reasonable
55 assurance to be used to deny a claim for unemployment. The educational
56 institution shall supply specific documentation to support its objection

1 that it has provided a contract to perform services and/or reasonable
2 assurance. If the educational institution fails to supply such specific
3 documentation, the objection shall be deemed invalid.

4 (d) (1) The provisions of subdivision ten of this section shall not be
5 interpreted, implemented, or otherwise construed in any way to apply to
6 services in a nonprofessional capacity.

7 (2) For the purposes of this subdivision and subdivision ten of this
8 section:

9 (i) "Professional capacity" shall strictly apply to services performed
10 in an instructional, research, or principal administrative capacity with
11 educational institutions, including the state university of New York,
12 the city university of New York and any public community college.

13 (ii) "Services in a nonprofessional capacity" shall apply to services
14 in any capacity other than a professional capacity and encompasses any
15 services other than an instructional, research, or principal administra-
16 tive capacity, regardless of the legal or educational requirements to
17 perform such services.

18 § 3. This act shall take effect immediately.