



Reasonable Assurance

What You Need to Know to Effectively Manage Your UC Program

What is Reasonable Assurance?

Reasonable Assurance is not an absolute guarantee of employment. Generally, Reasonable Assurance is defined as a *bona fide* offer of employment for the next academic term or year. State agencies consider an offer to be *bona fide* when the employer has expressed its intention to employ a claimant in the same or similar capacity and will make a good faith effort to do so. The employer can make an offer of Reasonable Assurance in writing, verbally, or it can be an implied agreement. The employee's rate of pay stays the same and the job being offered must stay the same or be very similar. It is always best to have a written agreement along with a signed acknowledgement by the employee. A signed letter from the employee is one of the best ways to prove that an employee has Reasonable Assurance for the next term or school year.

Offers of Employment

Employers should be able to support and document that offers of Reasonable Assurance were based on sound judgment and reasonable in light of historical patterns, customary trends, and current statistical data involving:

- Overall employment
- Student enrollment
- Mandated programs
- Attrition
- Expansion or reduction of programs
- Active collective bargaining agreements
- Budgetary data
- Availability of funding

It's important to remember that offers of employment contingent upon fulfillment of certain preconditions may jeopardize an offer of reasonable assurance of employment unless it can be shown that the conditions are not likely to affect the claimant.

- With the exception of educational institution employees already protected by contract or tenure, employers should provide reasonable assurance to employees, both professional and non-professional, who can be given a "*bona fide*" offer of re-employment to the same or similar capacity for the ensuing academic term or year.

- Employers should provide a notice of Reasonable Assurance to each individual chosen to receive Reasonable Assurance. It is best to give Reasonable Assurance notices, in person, and as early as possible, preferably prior to the end of the school year.
- The opportunity to offer Reasonable Assurance of re-employment, however, does not end on the last day of school. Reasonable Assurance can be provided at any time up to the commencement of classes in the new academic year.
- In the event that the Reasonable Assurance letters cannot be given in person, but must be mailed, it is advised that you mail the letters certified return receipt requested. The expense of mailing will be far less than the potential cost of unemployment benefits if notification of Reasonable Assurance cannot otherwise be proven.
- The date of notification is important. If at all possible, employers should have the employee receiving the Reasonable Assurance, receive it in person, sign it and date the written notification of Reasonable Assurance. If the employee refuses to sign the letter of reasonable assurance, the individual giving the notice should acknowledge the refusal, as "employee refused to sign," and then sign and date the letter personally.

Remember that the burden of proof rests with the employer to show that Reasonable Assurance was given. If a challenge is made to an offer of Reasonable Assurance and you are unable to establish that the offer is *bona fide*, the potential cost for unemployment compensation can be considerable.

In addition, if the employee is not employed at the commencement of the next academic term or year, most jurisdictions provide by statute the remedy of retroactive benefits for that period of disqualification served as a result of the initial offer of Reasonable Assurance.



Who Qualifies for Reasonable Assurance?

Reasonable Assurance applies to any employee of an Educational Institution. School employees are broken down into two groups; Certificated (Professional) or Classified (Non-Professional). Substitute Teachers are considered Certificated employees, however, Reasonable Assurance does not always apply to them. Consider for a moment, the nature of their job. Substitute Teachers fill in when needed and their jobs may change daily. It is more difficult to ensure that a Substitute Teacher will have the same job every single time he/she works.

Crossing guards and school bus drivers are also considered school employees. The general rule of thumb for crossing guards and bus drivers depends on how they are paid and whose buses they are using. If a crossing guard and/or bus driver is paid by the school system, then they are an employee and Reasonable Assurance should be contested. If they are not and the bus driver is not driving a school owned bus, then they are not considered employees of the school.



Coaches are also handled a little differently when it comes to Reasonable Assurance. If an employee is hired solely to coach and not to teach, even if there is a contract for continued employment during the next academic term, that employee will not qualify for Reasonable Assurance. Coaches only qualify for Reasonable Assurance when the employee is hired to coach and to teach.

Adjunct Personnel

Reasonable Assurance laws are generally applied to adjunct personnel (part times employees hired on a contractual basis) when determining eligibility or ineligibility for unemployment benefits since they operate in an instructional capacity. Supporting documentation will be necessary, both at the claim level and the hearing level, in establishing Reasonable Assurance. This can be provided in the form of a letter, contract, or evidence of past work history that demonstrates the person continued to be employed each successive term in a similar manner in the past.

Adjunct personnel are often times able to collect partial benefits during the school year, if they are not teaching a full class load, since their wages do not equal full time work. States have different regulations regarding adjunct personnel:

- some can be protested under Reasonable Assurance for the summer months
- some can be protested only if there is a valid contract in place before the end of the school year or semester
- some are considered laid off at the end of their contract period (no exceptions)

Any situation that could be protested under Reasonable Assurance, such as adjunct personnel, requires that the employer be considered a school employer or a nonprofit, such as a city, acting in conjunction with a school board. Very few states have regulations that will disqualify employees during the Reasonable Assurance period if the employer is a for-profit corporation.

Student Workers

In most cases, Reasonable Assurance does not apply to student workers. Services performed by a student who is enrolled or regularly attending classes at a school, college, or university do not constitute "employment" for the purposes of Unemployment Insurance coverage.





Best Practices

In order to safeguard against being charged unemployment compensation benefits for individuals who have been given Reasonable Assurance or are in adjunct status, it is important to provide the following information to Workforce Solutions:

- A copy of the completed Reasonable Assurance List Format Spreadsheet
- A copy of all Reasonable Assurance letters (notice of intent to employ/rehire)
- A copy of the School Calendar for the upcoming school year/term
- Class enrollment dates and times
- A copy of the Adjunct Personnel's contract (when available)

Workforce Solutions will notify and offer the letter of Reasonable Assurance to the State Agency on your behalf and will audit your account to ensure that you are not charged for unemployment compensation beyond the date of notification of Reasonable Assurance of re-employment.

If you have questions or would like sample letters of Reasonable Assurance and the List Format Spreadsheet, please contact your Workforce Solutions Unemployment Insurance Consultant.

