

# Reasonable Assurance

## DEFINITION & NOTICE REQUIREMENTS

### Definition of Reasonable Assurance:

Reasonable Assurance means a written, verbal, or implied agreement that the employee will perform services in the same or a similar capacity during the next academic year, term, or remainder of the term. Reasonable Assurance exists when the district has indicated to the individual that continued work is expected to be available and no action has been taken to terminate the employment relationship. A Reasonable Assurance letter must represent best judgment based on the facts at hand. *It is not a contract offer, nor is it legally binding. It is only a letter of expectation.*

Reasonable Assurance does not exist if offers of employment are contingent on enrollment, funding, or program changes.

### When is Reasonable Assurance an issue?

Reasonable Assurance becomes an issue when:

- a claim is filed during a recess period, and
- the base period of the claim includes school wages

Recess period is defined as:

- any week between two successive academic years or terms
- any holiday or recess period within a term, i.e., winter/spring break, and off-track weeks
- a period of paid sabbatical leave (provided for in the individual's contract)

School wages are defined as:

- wages earned as an employee of an educational entity, or
- wages earned as an employee of a nonprofit organization or public entity that provides services to, or on behalf of, an educational institution (i.e., crossing guards, bus drivers, campus child care centers)

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### Reasonable Assurance eligibility:

During a scheduled recess break, school employees may be eligible for unemployment insurance benefits if the following circumstances apply:

- they do not have RA to return at the end of the recess period
- this is the first year they were reduced from a 12-month to a 10 or 11-month position.
- their hours or pay in the new term are reduced substantially
- they were offered employment for summer school session and the summer session was canceled
- their services may be used during the recess period, i.e., substitute staff that are on call during the recess period

### Reasonable Assurance disqualification:

During a scheduled recess break, school employees are disqualified for unemployment insurance, if they have Reasonable Assurance to return to the same (or similar) position at the end of the scheduled recess. The principles of Reasonable Assurance apply to many areas that you may be unaware of, including:

- off-track recess periods for year round schools
- temporary teachers whose contracts have expired, but whom you expect to rehire in the fall based on past history of employment
- substitute employees that you intend to keep on the substitute list during the ensuing term

The provisions of UIC§ 1253.3 apply to school wages only. In other words, if a claimant has sufficient non-school earnings, then the claimant may qualify for unemployment insurance benefits during school recess periods, provided they are otherwise eligible.

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### Required notice – classified employees *with* Reasonable Assurance:

UIC§ 1253.3 requires that a written notice be sent to all ten and eleven-month regular, hourly, and substitute classified employees stating that they have Reasonable Assurance. The RA notice must be made 30 days prior to the end of the school term and must state that:

- the employee has RA to return to work
- the employee may file a claim for UI benefits
- the determination of eligibility will be made by the Employment Development Department and not the district
- the employee may be entitled to benefits retroactive to the date of initial claim, if not rehired within 30 days of the start of the next academic year or term

### Required notice – classified employees *without* Reasonable Assurance:

UIC§ 1253.3 requires that a written notice be sent to all ten and eleven-month regular, hourly, and substitute classified employees stating that they do not have Reasonable Assurance. The notice must be made 30 days prior to the end of the school term and must state that:

- they do not have Reasonable Assurance to return to work
- they should file a claim for unemployment insurance benefits

Note: This may be accomplished by incorporating a statement in the layoff notice to the employee, as required by EC§ 45117.

### Required notice – certificated employees:

UIC§ 1253.3 does not require that notification be sent to certificated employees; however, the Employment Development Department recommends that notice of Reasonable Assurance be sent to substitute, temporary, and contract teachers. If such a notice is not sent, it may be difficult to establish that the employees have a specific return-to-work date in a similar job capacity.

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### Temporary Contracts:

Employees with temporary contracts that expire are considered to be laid off and generally qualify for unemployment insurance benefits unless the district can offer a new contract or position that represents substantially similar economic terms and conditions.

### Substitutes:

Substitute employees who are on a substitute list but not called to work during the summer school session may be entitled to unemployment insurance benefits.

Substitute employees who work for more than one district may have Reasonable Assurance for one district but not another which may also result in entitlement to unemployment insurance benefits.

Districts may limit their unemployment insurance liability by establishing criteria for summer school substitute work and limiting summer school on-call lists.

### Adult Education Teachers:

Hourly or part-time adult education teachers have Reasonable Assurance if the district has notified them of their expected assignment in the next term, provided their employment is not contingent on enrollment, funding, or program changes.

Public class schedules, assignment notices, or similar notices will suffice as Reasonable Assurance letters.

### Community College Instructors:

Hourly or part-time non-tenured Community College instructors do not have Reasonable Assurance if their assignments are contingent on funding, enrollment, or program changes.

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Special Issues – what happens when an offer of work follows a layoff notice?

If, during the summer, you offer work to an employee who was not previously given Reasonable Assurance, be sure to document the date the offer was made and immediately notify the SBCEO. An offer of work, even during a recess period, constitutes Reasonable Assurance, and the EDD should be notified of the potentially disqualifying conditions.