



GEORGIA DEPARTMENT OF LABOR

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MARK BUTLER
COMMISSIONER

UI MEMORANDUM NO. 2012-04

TO: Career Center Managers
Field Service District Directors
District Tax Managers
UI Section Chiefs

FROM: *BAB*
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Unemployment Insurance

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DATE: February 1, 2012

SUBJECT: Educational Workers

This memorandum constitutes a comprehensive policy statement on educational workers. These guidelines apply to individuals who have not been separated and are filing for unemployment benefits between two successive academic terms or years, or during an established and customary vacation period or holiday recess that occurs within an academic term. This policy supersedes all prior directives and past memorandums on educational workers.

Educational Services

For unemployment insurance purposes, an individual who performed services for, with, or on behalf of an educational employer (including services for an educational institution, educational service agency or an entity providing services to or on behalf of an educational institution) is an educational worker. An educational employer includes both public and private whether for profit or non-profit, including those operated by the U.S. Government or any of its instrumentalities. Educational services may be performed in a professional capacity (instructional, research or principal administrative services), non-professional capacity (custodial, administrative support, cafeteria services, bus drivers, crossing guards, etc.) or any other capacity.

The between or within terms denial provision, under OCGA Section 34-8-196, applies to individuals who have not been separated and are filing for unemployment benefits between two successive academic terms or years, or during an established and customary vacation period or holiday recess that occurs within an academic term and is applicable, if the individual provided educational services for the most recent employer or a base period employer and reasonable assurance exists.

Educational services are generally not provided during periods between academic years or terms and during an established and customary vacation or recess within an academic term. Therefore, an educational worker with reasonable assurance, who files for unemployment insurance during such periods, is not eligible to receive unemployment benefits.

Reasonable Assurance

As stated in OCGA Section 34-8-196(d), "reasonable assurance means a written, verbal, or implied agreement between an employer and its employee that such an employee will return to employment following the period of unemployment." The reasonable assurance denial applies when all of the following conditions are met:

- The educational worker performed work during the most recent academic year or term; and
- The educational worker has not been separated from employment prior to the end of the academic year or term; and
- The educational worker has a bona fide (genuine, good faith) offer of employment in the second academic period or term by an authorized individual; and
- The work offered in the subsequent year or term is the same or similar to the work performed in the prior term or period.

Reasonable assurance exists even if the educational employer offering the job in the second period is different from the employer in the first period.

Only non-professional educational workers may be entitled to retroactive payments under OCGA Section 34-8-196(a)(2). The following conditions must be met:

- The same or similar work is not available in the subsequent academic term or year; and
- The individual properly certified for each week claimed; and
- All other availability and eligibility conditions were met for each week claimed; and
- The individual reopens the claim within fourteen (14) calendar days after the beginning of the next successive academic term or year or after being informed by the educational employer that the expected work would not be available, whichever date occurred first.

This policy statement is comprehensive; however, you may encounter situations which are not specifically covered in the memorandum. When issues/problems are detected, please first consult with the appropriate supervisor in your office to resolve the issue/problem. If you are still unable to solve the issue, a supervisor or manager should call the UI Policy and Procedures Section. We will periodically publish important information, questions and responses on the GDOL UI Intranet page.

An **Educational Workers Guide** is attached to make the policy statement relevant and easy to use. Also, an **Educational Worker Instructional Guide** will be added to the Online Claims Manual.

Inquiries regarding this memorandum should be directed to UI Policy and Procedures Section via email at uipolicy@gdol.ga.gov or by telephone at 404.232.3180.

BAB/WM/DB/rr

Distribution – E, H, J, K, L

Attachment

Educational Workers Guide

For purposes of this policy, the term “educational employer” includes both private and public employers, whether for profit or non-profit, including those operated by the U.S. Government or any of its instrumentalities. The term “educational worker” includes any individual who performs services for, with or on behalf of an educational employer. **Community action agencies provide emotional and social development training rather than educational or school-type training and are not educational employers; therefore, their employees, including Head Start workers, are not educational workers.**

I. Identifying Educational Employers

- a. Public schools, colleges and universities; or
- b. Profit or non-profit daycare centers offering a pre-K program funded by the Georgia Lottery; or
- c. Private or public employers providing educational services for, with or on behalf of an educational employer (for example, bus drivers, cafeteria workers, custodial workers, crossing guards, etc.); or
- d. Private schools, colleges and universities (registered with the Secretary of State as a corporation or limited liability corporation as indicated on EL55 in the “TYPE BUSI” field as CORP or OTHER); or
- e. Schools operated on a military base; or
- f. Virtual schools, colleges and universities.

II. Identifying Educational Workers

- a. The most recent employer or a base period employer must be an educational employer; and
- b. Professional employees: pre-K teachers, elementary and secondary teachers, substitute teachers, college professors, instructors, counselors, therapists, nurses, paraprofessionals, administrators (principals, superintendents, board of education employees), etc.; or
- c. Non-professional employees: pre-K workers other than teachers, custodians, administrative assistants, cafeteria workers, bus drivers, crossing guards, etc; or
- d. Head Start employees paid by a school or a board of education; however, Head Start employees of community action agencies are not educational workers.

III. Identifying Periods Between or Within Terms or Years

- a. A period between two successive academic terms or years; or
- b. A period for an established and customary vacation or holiday recess that occurs within an academic term or year; or
- c. A period covered by an agreement for a similar period between two regular, but not successive terms; or
- d. A period of paid sabbatical leave provided for in the individual's contract.

IV. Identifying Reasonable Assurance

- a. A written, verbal, or implied offer of employment following the period of unemployment; and
- b. Offer of employment must be given by an authorized employer representative; and
- c. Offer of employment must be genuine and made in good faith; and
- d. Terms and conditions of job offer must be the same or similar to the previous job held prior to the period of unemployment.