

School Denial Periods and Reasonable Assurances - COVID-19 Updates

School Denial Period: Overview

The Denial Period is for people who work in the educational field. Workers in the educational field are subject to a “Denial Period” and are usually not eligible for unemployment benefits in the following situations:

- The worker was hired to work during the regular reoccurring school year (or term)
- The worker was employed both during the reoccurring school year (or term) and immediately before the period between academic terms.
 - For example, the worker was employed during the spring academic semester and immediately before the summer vacation break began.
- The worker received “reasonable assurances” from the employer of returning to work at the start of the next school year or term.
 - See the next page for an overview of reasonable assurances.

For non-COVID-19 information about Denial Periods, see [Fact Sheet #150, What is a Denial Period?](#)

Education Workers Laid Off in Spring 2020 May Receive Unemployment Benefits in Summer 2020

Workers who became unemployed during the school year and received unemployment benefits as a result are likely eligible for unemployment benefits during the period between academic terms. This means that if a worker was laid off during the Spring 2020 academic semester and the worker qualified for unemployment benefits as a result, the worker may continue unemployment benefits during the summer vacation break. This is true even if the school worker received reasonable assurances from the employer of returning to work at the start of the next school year or term.

Workers in this situation should continue to certify for unemployment benefits during the summer vacation break through their Michigan Web Account Manager (MiWAM) accounts at www.michigan.gov/uia.

Pandemic Unemployment Assistance (PUA) for Workers During the Summer Vacation Break

Under the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, education workers may qualify for Pandemic Unemployment Assistance (PUA) if they meet all of the following criteria:

- The worker is not eligible for any other state or federal unemployment benefits.
- The school worker is unemployed from their education employment because they are between and within academic terms or during established and customary vacation periods or holiday recesses (and subject to the Denial Period).
- The worker is unemployed from the worker’s *other* employment between and within academic terms or during established and customary vacation periods or holiday recesses.
 - For example, the worker usually works at a restaurant or has self-employment during the summer vacation break but is now laid off or unemployed.
- The reason for the worker’s unemployment from the *other* employment is for a COVID-19 specific reason. For a list of qualifying COVID-19 reasons and more information about PUA, see [Fact Sheet #172, Pandemic Unemployment Assistance \(PUA\)](#).

Under the CARES Act, non-professional workers who qualify for PUA cannot use wages earned from an education employer to establish the worker's PUA weekly benefit amount. Workers can apply for PUA benefits on MiWAM at www.michigan.gov/uia.

Reasonable Assurance: Overview

Although "reasonable assurance" is not a guarantee of a job, it is an employer's "reasonable assurance" that a job will be available at the beginning of the next season or academic term, based upon the facts and circumstances known to the employer at the time the assurance is given. Typically, school employers indicate their assurance in a letter to employees near the end of the academic term. "Reasonable assurances" must first meet three criteria:

1. The offer of employment must be made by an individual with actual authority to offer the employment.
2. The employment offered must be in the same capacity (either professional or non-professional) as the workers' current position.
3. The employment offered must be similar in wage and fringe benefits to the worker's current situation.

If an employer does not give "reasonable assurances" to a worker that the worker will return to work at the start of the next season or academic term, the worker may qualify for unemployment benefits. For more non-COVID-19 information on "reasonable assurances," see [Fact Sheet #151, Understanding Reasonable Assurance](#).

Reasonable Assurances: An Employer's Reasonable Assurance is Not Always the Final Decision

When an employer provides "reasonable assurances" that a job will be available at the beginning of the next season or academic term, the Unemployment Insurance Agency (UIA) must conduct a fact specific inquiry into whether the employer's assurances are reasonable or not.

UIA must consider multiple factors to determine if an employer's assurances are reasonable, which include but are not limited to:

- Funding:
 - Budgeting and assignment practices of the employer
 - History of the employer's funding
 - Likelihood that the employer will receive funding
 - Likelihood that specific workers' positions will receive funding
 - Data related to funding, including routine Census data
- Course programming:
 - Final course offerings
 - Program changes
 - Nature of the course (e.g. required or optional, taught regularly or sporadically)
- Reopen dates (e.g. if school will/will not reopen as regularly scheduled)
- Facility availability
- Student enrollment

In addition to the factors above, UIA may also consider the following COVID-19 specific factors:

- The school's plan for returning to in-person or virtual education for the Fall 2020 academic term
- The schools are closed or predicted to be closed to in-person instruction (remote only) and workers have no option to telework
- If the school's 2020-2021 budget can be reasonably predicted
- The status of the State of Michigan's Safe Start and Safe School plans, the State of Michigan's COVID-19 state of emergency, and COVID-19 public health developments

Reasonable Assurances and COVID-19: Reasonable Assurances May Change Over a Period of Time

An employer's "reasonable assurances" may be revisited during the period between academic terms. Due to the changing nature of the COVID-19 pandemic on how schools deliver education services and potential budget shortfalls, both employers and UIA will likely revisit the employers' reasonable assurances throughout the Summer 2020 vacation break. Therefore, both employers and workers should notify UIA if facts or circumstances change that could affect an employer's reasonable assurance.

Non-professional workers are eligible for retroactive unemployment benefits if reasonable assurances are later found to be invalid, but only retroactive to the date the workers applied for unemployment benefits. Therefore, workers should immediately apply for unemployment benefits if the situations described in this Fact Sheet apply to them.

Non-professional education workers include workers employed by education institutions or contracted by education institutions, and who do not perform instructional, research, or principal administrative functions. Professional education workers include teachers, substitute teachers, and school administration officials. Non-professional education workers include:

- Custodians, groundskeepers, and maintenance workers
- Paraprofessionals, secretaries, and clerical staff
- Teacher's aides
- Food service workers
- Bus drivers

Protesting or Appealing the Denial or Approval of Unemployment Benefits

Both employers and workers can protest or appeal a determination or redetermination within 30 days of the mail date on the re(determination). UIA will conduct a fact specific inquiry into whether a worker is eligible to receive or continue to receive unemployment benefits. Employers and workers can file a protest or appeal through MiWAM at www.michigan.gov/uia.