

**GUIDE TO UNEMPLOYMENT
BENEFITS FOR**

ADJUNCT INSTRUCTORS



This guide provides information for adjuncts who are applying for unemployment insurance benefits between terms as well as for those who are denied benefits.



Maine Service
Employees Association
SEIU Local 1989

Introduction and History

If you didn't know that adjunct professors could apply and collect unemployment benefits between contract terms, you're not alone. Clear guidance was only issued in 2016 and isn't something that colleges are advertising. Prior to 2016, the guidance for educational staff hadn't been updated since 1986 for focused on primary and secondary education, not higher education.

As the use of contingent faculty became more and more prevalent, it was clear that the guidance needed updating. Many organizations, including the American Association of University Professors, American Federation of Teachers, Communications Workers of America, National Education Association, New Faculty Majority, Service Employees International Union, United Auto Workers, and United Steel Workers appealed to the Department of Labor, ultimately convincing them that the changing landscape at colleges and universities necessitated a change to the laws.

In 2016, Unemployment Insurance Program Letter No. 05-17 was released, clearing up much of the confusion regarding the rights of contingent faculty for unemployment benefits. The guidance reads that adjunct faculty cannot receive unemployment compensation "between academic years or terms, and during vacation periods or holiday recesses within terms, if that employee has a 'contract' or 'reasonable assurance' of performing services in such educational employment in the following year, term, or remainder of a term."

For more information about the updates to the law and what it means for you, visit the American Association of University Professors' (AAUP) website: <https://www.aaup.org/unemployment-compensation-contingent-faculty>.

Who is Eligible for Unemployment Insurance Benefits?

Adjunct faculty who are not otherwise employed may be eligible for unemployment compensation through the Maine Department of Labor's Bureau of Unemployment Compensation (DOL).

Unemployment insurance (UI) benefits are payments that you are entitled to by law under certain conditions. Eligibility requires:

- Meeting the earning requirements set out by the DOL.
- Being able and willing to begin suitable work without delay when it is offered.
- Being unemployed or working significantly reduced hours through no fault of your own.

What is the Process to Apply for UI?

- Apply in a timely manner, preferably when your current term ends. Generally, the later you apply, the greater the likelihood that you will receive a reduced amount of UI. For this reason it is best to apply during the first week of total or partial unemployment.
- Apply through the DOL website, <https://www.maine.gov/unemployment/>, or by phone, 1-800-593-7660.
- Once you have applied, the DOL will notify the employer of the claim in order to verify the information. This is generally done by a telephone call to the college or university payroll or administrative office.
- Sometimes, employees of educational institutions will be asked to complete a supplemental application.
- Some colleges contest claims. If the claim is contested by the employer (college), the local DOL office will approve or deny the claim based on the information that you the college have supplied at that time. Both parties will be informed of their right to appeal the initial decision to a review examiner.
- If there is an appeal of DOL's decision, there will be a hearing.

How Do I fill out the Application for Unemployment Benefits?

- You must state on your application that you are willing and able to accept an assignment. Do not state that you are unavailable or not interested in a future assignment.

Guide to Unemployment Benefits for Adjuncts

- Keep in mind that the DOL claims processor does not know you, your college, your contact, or jargon specific to your school or profession.
- A college—and sometimes DOL on its own—will assert that an adjunct faculty member is not eligible for unemployment because they have a “reasonable assurance” or continued employment in the next semester. As adjunct professor has a reasonable assurance of reemployment—despite enrollment or funding contingencies—if the employer can show a history of reemployment on similar terms and conditions, and the offered employment is not substantially less than the prior employment.

What to know about “reasonable assurance”

- Because colleges make course assignments contingent upon many factors—student enrollment or funding, for example—adjunct faculty have successfully argued that they do not have reasonable assurance of employment. This means that your courses could be cancelled at any time. Make it clear to the DOL that you have not received a contract for the upcoming term or, if you have received a contract, that the contract provides a *tentative* offer of reemployment and that courses taught by adjunct faculty can often be cancelled the week a semester begins, or even after a semester has begun.
- One exception to this general rule occurs when the college can show that, even though the offer of reemployment was tentative and contingent on other factors, your course schedule history has been so regular and unchanging that a reasonable expectation is created that the course(s) will run again. In this case, you may be denied unemployment benefits.
- The employer shoulders the burden to prove that the adjunct has “reasonable assurance” of work. This means that the college must provide “substantial evidence proving the regularity of your course schedule history.
- Make sure to determine whether a notification about employment in the next school term can from a person with the authority to bind the college to an employment offer. If the offer did not come

from someone with that authority, or if someone with that authority has not signed the offer, make sure to point that out in your application.

- As an adjunct instructor, the contract offer that you receive for the upcoming semester likely includes contingencies. "If any of those contract contingencies are within the employer's (i.e., educational institution's) control, the state agency must determine the claimant does not have reasonable assurance."
- Contingencies that are within the employer's control and DO NOT give you (the claimant) reasonable assurance to a job include:
 - Course programming
 - Funding allocation
 - Program changes
 - Facility availability

What to know about "substantially less" work

- If you are offered work that is substantially less than your previous workload, you may be eligible for UI benefits. The DOL's policy considers a workload to be "substantially less" if there is a reduction of greater than 10 percent in wages and benefits compared to what was earned in the prior academic year or term.
- Generally, a contractual requirement by the employer to offer at least one course per term is not sufficient to establish that you have reasonable assurance if that is "substantially less" than your prior employment.

When the application or DOL asks you for more information

- If your courses for the upcoming semester have been cancelled, be sure to state that courses you were assigned have ultimately been cancelled. You not only want to show that the courses for the next semester have been cancelled; you want to establish a pattern that you have often had courses cancelled after getting an

assignment. You can submit email exchanges and schedules to demonstrate this.

- Provide evidence showing that you do not have reasonable assurance. Such evidence includes Collective Bargaining Agreement language on appointments. Highlight contract language that makes it clear that your assignment is finite. Many agreements have language that refers to appointments as “tentative” or gives management the right to cancel a class for a number of reasons. Use the academic calendar to show that there were summer or winter sessions offered and that you were not given courses during those terms. Even if a term is not offered during the winter, you can still be eligible for the break between fall and spring semesters. Use the submission of a teaching availability form to show your availability and willingness to work. Submit letters or statements from the college claiming that enrollment is down.

What if My Application is Denied?

You can file an appeal

- It is essential that you, as the claimant, file a timely appeal. Once a claim has been denied, there is a deadline for how long you have to appeal.
- Members can reach out to the Maine AFL CIO for additional help and resources with Unemployment

Guide to Unemployment Assistance Evidence Checklist

Collective Bargaining Agreement: Highlight contract language that makes it clear that your assignment is finite. Many agreements have language that refers to appointments as “tentative” or gives management the right to cancel a class for a number of reasons.

Academic calendar: Show that there were summer or winter sessions offered and that you were not given courses during those terms. Even if

a term is not offered during the winter, you can still be eligible for the break between fall and spring semesters.

Teaching availability form: Show that you are available and willing to work.

Evidence that courses you were assigned have been cancelled: Include emails and schedules from the past few years to show that your courses were cancelled. You could use schedules to show that course offerings change frequently over the summer and winter break. You not only want to show that the courses for the upcoming semester have been cancelled, but you want to establish a pattern that you have had courses cancelled after getting an assignment. Include letters or statements from the college that enrollment is down or that your work load will be reduced.

Evidence that courses have been offered pro rata: Include emails and other correspondence from the past few years that show you were told that courses would be running pro rata. You could use schedules or pay stubs to show that course offerings have changed. If you use pay stubs as evidence, make sure to explain what your normal pay would be under the Collective Bargaining Agreement.

Key Points

- If you think you might be eligible for unemployment benefits, **APPLY**—the sooner, the better.
- Make or request copies of everything. Get agreements in writing, document important conversations and the names of people you spoke with, and file them somewhere safe.