

Guide to Unemployment Benefits for
ADJUNCTS



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

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Who Is Eligible for Unemployment Insurance Benefits?

Adjunct faculty who are not otherwise employed may be eligible for unemployment compensation through the Massachusetts Department of Unemployment Assistance (DUA).

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 DUA.
- Being able and willing to begin suitable work without delay when it is offered, or you are out of work for reasons caused by the coronavirus. A list of reasons can be found at the end of this book.
- 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 DUA website, www.mass.gov/orgs/departments-of-unemployment-assistance, or by phone, (617) 626-6800.
- Once you have applied, the DUA will notify the employer of the claim in order to verify the information.
- Often, 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 DUA office will approve or deny the claim based on the information that you and 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 DUA's decision, there will be a hearing. Hearings are often held telephonically, and have been held telephonically more frequently in the wake of Coronavirus.

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 or that you are unable to work, due to Coronavirus.
- Keep in mind that the DUA claims processor does not know you, your college, your contract, or jargon specific to your school or profession.
- A college — and sometimes DUA on its own — will assert that an adjunct faculty member is not eligible for unemployment because she or he has a “reasonable assurance” of continued employment in the next semester. An adjunct professor has 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 DUA that you have been given a *tentative* offer of reemployment and that courses taught by adjunct faculty are 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, the adjunct is not eligible for unemployment benefits.
- The employer shoulders the burden to prove that the adjunct has a “reasonable assurance” of work. This means that the college must provide “substantial evidence” proving the regularity of your course schedule history.

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 DUA’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 gives you the opportunity to provide more information

- If possible, 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 indefinite. 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. 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?

MTA members can receive legal representation for unemployment hearings and appeals

- If you are an MTA member who has been denied UI benefits, contact your MTA field representative and ask about getting legal services.
- It is essential that you, as the claimant, file a timely appeal. *You have 10 days to appeal DUA’s rejection of your claim. File your appeal and then contact your union!*
- Please notify your chapter or local president that your claim was denied.

Guide to Unemployment Assistance Evidence

CHECKLIST



Collective Bargaining Agreement: Highlight contract language that makes it clear your assignment is indefinite. 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.

Statements from the College that make your reappointment less likely: Include statements regarding uncertainty of class schedules and budget issues that the college is facing.

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

Evidence that courses you were assigned have ultimately been cancelled: Include emails and schedules from the past few years that 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 often had courses cancelled after getting an assignment. Include letters or statements from the college that enrollment is down or that your work area 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.

Changes to Unemployment Insurance due to **Coronavirus**



Coronavirus is affecting all aspects of life, which of course includes employment/unemployment. Currently, the union is advocating at the State House for emergency health care coverage for adjuncts. Furthermore, the union continues to bargain and advocate for solutions to job insecurity and pay inequity. Please connect with your local union for more info.

In response to the coronavirus pandemic, there have been changes made to the unemployment system, including:

- The usual one-week waiting period for unemployment insurance is waived.
- The *CARES Act* provides an additional \$600 a week to individual's unemployment benefit.
- Usually, in order to qualify for unemployment, you need be ready and willing to accept employment, if it is offered. Under the *CARES Act*, there is an exception to this rule: you are eligible for unemployment if you have had to leave work for the following coronavirus-related issues:
 - » You were diagnosed with COVID-19 or you have symptoms.
 - » A member of your household was diagnosed with COVID-19.
 - » You are caring for a family or household member who tested positive or was diagnosed with COVID-19.
 - » You have primary responsibility for a child whose school or child care facility is closed and you need to care for them.
 - » You have primary responsibility for a member of your household who needs care.
 - » Your employer or a government order told you to self-quarantine.
 - » You have been advised by a health care provider to self-quarantine.
 - » Your immune system is compromised due to a serious health condition.
 - » You have a reasonable belief that because of COVID-19, going to work could harm your health.
 - » You were scheduled to start work but you no longer have that job or you cannot go to work due to COVID-19.
 - » The head of your household died from the coronavirus so now the whole household depends on you for support.
 - » You had to quit your job because you tested positive for COVID-19 or you came into contact with someone who tested positive.

