



## Unemployment Insurance Benefits: Fact Sheet for Contingent Faculty

Claimants with contracts are ineligible for unemployment. If no contract exists, the state must determine whether there is a “reasonable assurance” of employment in the following academic year or term (or portion thereof). The following factors will be taken into account to determine whether a contingent faculty member has a “reasonable assurance” of employment:

- If any contingencies in the offer are within the employer’s (i.e., the educational institution’s) control, the state agency must conclude the claimant does not have “reasonable assurance” and is entitled to unemployment benefits if otherwise eligible.
  - Course programming decisions, allocation of available funding, and facility availability are considered employer-controllable contingencies.
  - Contingencies outside the employer’s control include course enrollment and seniority.
- The state agency must analyze the totality of circumstances to determine if it is “highly probable” that a job will be available for the claimant in the following academic year or term.
  - To do this, the state will consider a number of factors, including funding, enrollment, the nature of the course, school budgeting and assignment practices, the number of offers made in relation to the number of potential teaching assignments, the student registration period, and other contingencies.
- If the offer contains a contingency, the state agency must give primary weight to the

contingent nature of the offer, and determine whether it is highly probable the contingency will be met. Reasonable assurance cannot be granted without such high probability because the contingent nature of the offer outweighs any other facts indicating that the claimant has a “reasonable assurance.”

### How could the changes impact me?

Contingent faculty without a “contract” for or “reasonable assurance” of continued employment for an upcoming academic year or term should consider applying for unemployment between terms.

It is impossible to say precisely which contingent faculty members are eligible for unemployment between terms. Unemployment eligibility determinations are inherently fact-specific and can vary on a case-by-case basis.

However, the federal guidance is an extremely important step forward in clarifying and narrowing the circumstances as to when unemployment compensation can be denied to contingent faculty between terms.

### I believe I may be eligible and want more information. Where can I find it?

The federal guidance, Unemployment Insurance Program Letter No. 5-17, was issued Dec. 22, 2016, by the U.S Department of Labor, Employment and Training Administration. It contains significant additional detail regarding how the new guidance should be applied in particular cases.

Program Letter No. 5-17 can be found at [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DCN=8999](https://wdr.doleta.gov/directives/corr_doc.cfm?DCN=8999)



### Contact Information:

More information on eligibility for unemployment insurance benefits and how to file a claim to receive benefits in New York can be found at <https://labor.ny.gov/unemploymentassistance.shtm>