

FAQ Regarding Unemployment Benefits

In an effort to help those on the reduction in force list, our legal counsel researched the following questions. This research is not legal advice or a guarantee of benefits, it's purely a guide and for general information.

May faculty who are laid off apply for unemployment benefits retroactive to their last date of work?

The Ohio Revised Code provides that individuals who work in an instructional or research capacity in an institution of higher education will not be eligible for benefits over a summer break if the individual has “a contract or a reasonable assurance” that the individual will be employed in the fall term. Ohio Rev. Code §4141.29(I)(1)(a).

However, you should argue the disqualification found in this rule should not apply because the University did not provide the agency with the statement required in writing by O.R.C. Section 4141.29(I)(2) that you had a contract or a reasonable assurance of returning to employment.

Furthermore, according to the research of our legal team, you should argue for benefits back to the earliest possible date that you learned you were not returning to employment. You can further argue that unemployment benefits are based upon the need to alleviate unanticipated interruptions in earned income, and once you learned you were not going to return to work you then had an unanticipated interruption in earned income.

Note: as you work through the benefits system, you should argue that Ohio's unemployment statutes are to be given a liberal construction in favor of the person seeking benefits, and you should continue timely appealing any denials you receive.

How would the pandemic affect retroactive benefits?

Generally, unemployment benefits are not paid for the weeks of unemployment that pass before a claim is filed. However, given the pandemic, it is possible that regular unemployment benefits (with the CARES Act supplement) would be paid retroactively despite a claim not being filed earlier. The Ohio Department of Jobs and Family Services (ODJFS) guidance says benefits will be paid retroactively to when someone first became eligible – but it is not clear whether eligibility is contingent upon filing a timely claim. See Page 2 of [this document](#)

Alternatively, the [PUA program](#) provides compensation to those who do not qualify for regular unemployment compensation and can be retroactive, so if your claim for regular unemployment is denied, you may be interested in applying for PUA benefits while you appeal the denial.

Note that receiving retroactive weeks of unemployment could result in you exhausting your unemployment compensation benefits sooner (currently there is a max of 26 weeks if you

exhaust your 26 weeks after December 2020 – but this may change). Note also that the \$600 CARES Act supplement benefit expires July 25, 2020. However, it may be extended or changed by Congress.

How does any severance payment from UA affect unemployment benefits?

The ODJFS unemployment guide for workers states that severance *may* be deductible from unemployment compensation, but it is not *necessarily* deductible. If a lump sum severance payment is not allocated to a period of time by the employer, ODFJS will allocate the severance such that it is deducted from unemployment compensation.

However, the proposed agreement provides that the Administration will attribute the severance pay to the last day of employment with the University. As a result, ODJFS should not allocate the severance pay to weeks of unemployment and the payment of severance should not have an effect on unemployment compensation.

How does part-time teaching affect unemployment benefits?

Whether benefits would be available, and how much, depends on the past salary, the part-time teaching salary, and whether the federal government extends the CARES Act supplement.

If you accept part-time teaching:

- Partial unemployment is *possible* if you earn less than the unemployment weekly benefit from the partial unemployment. If you have no dependents (as defined by ODJFS), the maximum is \$480. If you have 1-2 dependents, the maximum is \$582. If your earnings are less than your weekly benefit amount, you are given an earnings exemption of 20% of your weekly benefit amount before the offset applies.
 - If the federal supplement (currently \$600) is extended on its current terms, that would be provided so long as you receive \$1 in partial unemployment benefits from the state. Currently, this benefit will expire on July 25, 2020, but Congress is considering an extension of some kind.
 - Example: if part-time teaching would pay \$350/week, an employee with no dependents would be eligible for \$226 (\$130 plus \$96 from the 20% exemption) in traditional unemployment (assuming they made more than \$50,000 before the layoff) plus the federal supplement (\$600 or whatever Congress provides in an extension).
 - If you make too much to receive benefits, you can re-start your claim after the teaching and pay for the teaching ends.

If you were to decline an offer to teach part-time:

- While job-search requirements are waived currently, to be eligible for unemployment, you must be willing to “accept suitable work that you can reasonably perform.” Therefore, declining part-time teaching may disqualify you from benefits.
 - Whether work is suitable is determined by your occupation, prior training, and the length of your unemployment. Prior wages are not normally considered when determining whether work is suitable.
 - To reject an offer of suitable work and still be eligible for benefits, there must be “good cause” for declining the work.
 - It could be argued that accepting a part-time teaching position would preclude finding a full-time position with benefits, given that the part-time work would represent a commitment for the semester. It is not clear that such an argument for refusing the work would be successful.
 - We asked the University to agree in writing that it will not challenge unemployment claims on this basis. While the University agreed, their agreement was contingent upon ratification of the agreement; the University has also taken the position that this agreement is contingent upon signing the release of claims against the University. ■

Additional Resources:

Workers’ Guide to Unemployment: <http://www.odjfs.state.oh.us/forms/num/JFS55213/pdf/>

Ohio DJFS Coronavirus page: <https://unemploymenthelp.ohio.gov/>

Department of Labor Guidance: <https://www.dol.gov/coronavirus/unemployment-insurance>