

Preschool Teachers and Unemployment Benefit Eligibility

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Issue

Explain how eligibility for unemployment benefits is determined for teachers at preschools during periods when the schools are on break, such as during the summer.

Summary

Generally, Kindergarten through grade 12 teachers (as well as higher education instructors and professors) employed by educational institutions are not eligible for unemployment benefits during a break in school if they have a reasonable assurance of returning to work after the break ([CGS § 31-227\(d\)](#)). But this teacher exception does not automatically apply to all preschools. The state Department of Labor (DOL) applies a multi-pronged test to determine whether the teacher's preschool qualifies as an educational institution under the exception. If the preschool meets the criteria of an educational institution under unemployment law, then its teachers would be excluded from benefits during break periods.

State Law for Teachers and Unemployment Benefits

[CGS § 31-227\(d\)](#) prohibits claimants from receiving unemployment benefits based on their work for an "educational institution" in an instructional, research, or principal administrative capacity for any week of unemployment during (1) the period between academic years or terms or (2) any established or customary vacation period or holiday recess. Federal law requires state unemployment systems to include this provision ([26 U.S.C. § 3304\(a\)\(6\)\(A\)](#)).

Under the state's law, if a benefit claim is denied due to the expectation of returning to the position at the end of the break, but the claimant is not offered his or her job back when school resumes, then the claimant is eligible for retroactive benefits from the date the initial claim was made. This is also a requirement of the federal law ([26 U.S.C. § 3304\(a\)\(6\)\(A\)](#)).

Test to Determine Preschool Eligibility

According to DOL, the Connecticut Employment Security Board of Review, the administrative board for unemployment appeals cases, uses a three-part test to determine whether an employer is an educational institution under the law that exempts teachers from unemployment benefits during school breaks. To be an "educational institution" under the test, which was recommended by the U.S. Department of Labor, an employer must:

1. offer an organized course of study or training through instructors or teachers;
2. ensure the course of study is academic, technical, trade or preparation for gainful employment in a recognized occupation; and
3. receive approval or have a license or permit to operate as a school by the State Department of Education or other government agency that is authorized to approve, license, or issue such a permit.

The review board first used this test in its 1986 decision *Dominique v. Eastconn*, Board Case No. 1797-85-BR.

Because it makes determinations on a case-by-case basis, DOL is reluctant to generalize about which preschools qualify as educational institutions and which do not. But they indicated that based on previous decisions, Head Start programs are not considered educational institutions because the goal of Head Start is child adjustment and development at the emotional and social level, rather than "school-type training" (see *Joann Harley v. Cooperative Educational Services*, [1035-BR-89](#)). Furthermore, if a program changes its structure, it may need to be examined again as it could meet (or no longer meet) the definition of an educational institution after the changes.

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