

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JANICE L VAN VOORST**  
Claimant

**WEST SIOUX COMMUNITY SCHOOL DIST**  
Employer

**APPEAL 17A-UI-11861-JP-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/04/17**  
**Claimant: Appellant (4)**

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Iowa Code § 96.4(5) – Reasonable Assurance

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the November 13, 2017, (reference 01) unemployment insurance decision that denied benefits as of June 4, 2017. The parties were properly notified about the hearing. A telephone hearing was held on December 11, 2017. Claimant participated. Maribel Curiel participated on claimant's behalf. Keiana Draayer was registered as a witness on claimant's behalf, but she did not answer when contacted at the number provided. Employer participated through business manager Jake Vanderham. Ryan Kramer registered as a witness on the employer's behalf, but he did not participate. The administrative law judge attempted to contact Mr. Kramer at the number provided on multiple occasions, but either received error messages or there was no response when the call was connected. Claimant Exhibits A and B were admitted into evidence with no objection. Official notice was taken of the administrative record with no objection.

**ISSUE:**

Is the claimant eligible for benefits between academic years or terms?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a para educator for the West Sioux Community School District during the 2016 – 2017, school year. Claimant worked full-time during the school year for the employer as a para educator. The 2016 – 2017 school year ended the end of May 2017.

Claimant filed a claim for benefits with an effective date of June 4, 2017. On June 12, 2017, the employer mailed claimant a work agreement letter dated June 12, 2017. Claimant Exhibit A. Claimant signed the work agreement on June 15, 2017 and agreed to return to the employer. Claimant Exhibit A. The work agreement dated June 12, 2017 was the first notice the employer gave claimant that she was eligible to return to the employer for the 2017 – 2018 school year. The work agreement detailed that claimant would work the same hours and her pay would not

be decreased. The employer did not verbally notify claimant that she was going to be offered a work agreement to return for the 2017 – 2018 school year. The employer's normal standard of practice is to only notify employees verbally if they are not coming back. The employer assumes employees know they are coming back if they do not hear anything from the employer. Claimant has no other regular non-educational institution employment wage credits in the base period.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant had reasonable assurance of returning to work the following academic term or year as of the week beginning June 11, 2017.

Iowa Code section 96.4(5)a provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, subsection 18, are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such academic years or both such terms.

Public Law 94-566 provides:

(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if:

(1) Such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

(2) There is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms.

Iowa Admin. Code r. 871-24.51(6) provides:

**School definitions.**

(6) Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

Iowa Admin. Code r. 871-24.52(6) provides:

Benefits which are denied to an individual that are based on services performed in an educational institution for periods between academic years or terms shall cause the denial of the use of such wage credits. However, if sufficient nonschool wage credits remain on the claim to qualify under Iowa Code § 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

The employer is an “education institution.” Iowa Admin. Code r. 871-24.51(1). Claimant worked for the employer during the 2016 – 2017 school year as a full-time para educator. As of the employer’s work agreement dated June 12, 2017, claimant had reasonable assurance of continued employment with the employer. See Claimant Exhibit A. As a result, claimant is not considered unemployed effective June 11, 2017. Claimant does not have other non-educational institution wage credits in the base period. Benefits are denied effective June 11, 2017.

Because claimant opened her claim for benefits with an effective date of June 4, 2017, but was not given reasonable assurance of continued employment with the employer until June 12, 2017, benefits are allowed for the one week period ending June 10, 2017.

**DECISION:**

The November 13, 2017, (reference 01) unemployment insurance decision is modified in favor of the appellant. Benefits are allowed for the one week period ending June 10, 2017. Claimant does have reasonable assurance of returning to work the following academic year or term effective June 11, 2017. Benefits are denied effective June 11, 2017.

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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

jp/rvs