

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MAXINE K HOLADAY**  
Claimant

**DES MOINES IND COMMUNITY SCH DIST**  
Employer

**APPEAL 19A-UI-05239-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/02/19**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(5) – Reasonable Assurance

**STATEMENT OF THE CASE:**

On July 1, 2019, the claimant filed an appeal from the June 28, 2019, (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 25, 2019. Claimant participated and testified. Employer participated through Benefits Specialist Rhonda Wagoner. Employer's Exhibit 1 was received into evidence.

**ISSUE:**

Does the claimant have reasonable assurance of continued employment in the next school term or year?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time food service clerk for the Des Moines Independent Community School District during the 2018 – 2019 school year. Claimant has no other regular non-educational institution employment wage credits in the base period. In May 2019 claimant was offered her same position and hours for the 2019 – 2020 school year, which she accepted. (Exhibit 1).

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant does have reasonable assurance of returning to work the following academic term or year.

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.

In this case, the claimant did not have other non-educational institution wage credits in the base period. The claimant does have reasonable assurance of continued employment for the 2019-2020, school year. As a result, the claimant is not considered unemployed. Accordingly, benefits are denied.

**DECISION:**

The June 28, 2019, (reference 03) unemployment insurance decision is affirmed. The claimant does have reasonable assurance of returning to work the following academic year or term. Benefits are denied.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs