



Senator Nina Turner

Minority Whip
25th District

Ohio Senate
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September 30, 2013

Michael B. Colbert, Director
Ohio Department of Job & Family Services
30 East Broad Street, 32nd Floor
Columbus, OH 43215

Dear Director Colbert:

I write to share concerns brought to my attention by constituents and other interested parties around the state with the seemingly inconsistent standards applied to claims for unemployment compensation by adjunct faculty members at Ohio's colleges and universities. With contingent faculty becoming more prominent at Ohio institutions, it is imperative that the state provide a clear, predictable set of standards by which their applications for benefits are judged.

Through conversation with the affected individuals and Ohio Department of Job & Family Services policy liaisons, and examination of the relevant legal framework, it is clear that the main challenge arises from the lack of a clear, workable definition of what constitutes a "reasonable assurance" of employment as mentioned in Section 4141.29(I)(1) of the Ohio Revised Code. In the absence of clear legislative guidance, the Department has rightly relied upon the judicial precedent established by *University of Akron v. Ohio Department of Job & Family Services*, 2009 Ohio 3172. Yet even this is too vague a standard on which to base a reasonable set of guidelines.

While I appreciate that each application for unemployment benefits is determined on a case-by-case basis, decisions should be made utilizing a well-defined set of criteria. The current ambiguity has led to adjunct faculty members at the same institution in strikingly similar circumstances receiving different outcomes.

The Department of Job & Family Services has defined "reasonable assurance" (albeit not officially) in a June 2011 factsheet.¹

"What if the employer does not provide "reasonable assurance" or the opportunity to return to work is contingent upon sufficient enrollment, adequate funding, or changes in the program. Will I be eligible to receive benefits during the between-term period?"

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“Regardless of whether you are a professional or non-professional, if the offer of work is contingent upon sufficient funding or enrollment, you would not have reasonable assurance for the next school year or term.”

Clearly, contingent faculty who are not offered the option to teach during the summer term, and whose employment in the fall is explicitly contingent upon sufficient enrollment in their possible courses or a full-time faculty member not becoming available to teach that course, meet this standard.

While the state’s hearing officers are certainly not bound by the language in a factsheet, the lack of a clear definition of what constitutes “reasonable assurance” is leading to inconsistent judgments in claims for unemployment benefits. I encourage you to promulgate rules to address this void, and make it clear that employment that is dependent upon as-yet-undetermined factors does not offer the reasonable assurance that Ohio workers deserve.

I look forward to working with you and interested parties to resolve this matter going forward, and would be happy to answer any questions that you may have.

All the best,

Nina Turner
State Senator
25th District

cc: The Hon. Kevin Bacon, Chair, Senate Commerce & Labor Committee
The Hon. Edna Brown, Ranking Member, Senate Commerce & Labor Committee

¹ “A Lesson on Layoffs for School Employees.” Ohio Department of Job and Family Services. June 2011.