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A 6635 Heastie / S 4470 Savino Higher Education Employment Protection Act

AN ACT to amend the labor law, in relation to unemployment insurance benefits for professional employment by certain education institutions

Purpose:

To clarify that adjunct faculty in higher education are not barred from receiving unemployment insurance benefits by a conditional offer of work in the future that is contingent on enrollment, funding or program changes.

Statement of Support:

Unemployment insurance provides financial assistance for workers who become unemployed through no fault of their own. However, many part-time, adjunct faculty working in colleges and universities in New York State are unable to receive unemployment insurance when they become unemployed between semesters, because their unemployment insurance claims are unfairly subject to a provision of law that was written with full-time education employees in mind.

Subdivision 10 of section 590 of the Labor Law holds that educational employees may not receive unemployment benefits during a vacation or holiday recess if they have a “reasonable assurance” of continued employment after the break. This provision was written to prevent full-time educators with secure positions who received their annual salary in ten months, instead of 12 months, from “double dipping” by collecting unemployment insurance benefits in the summer. It should not be applied to part-time adjunct faculty, as they have no guarantee (no reasonable assurance) of continued employment from semester to semester.

It is common practice for public colleges and universities to issue conditional job offers to adjunct faculty that make the adjunct faculty members’ employment in the following semester contingent on volatile factors such as enrollment, funding or program changes. Such non-binding “intent to hire” letters don’t actually assure adjunct faculty members of a job at the start of the following semester, yet, under current law, they are enough to disqualify them for unemployment insurance.

This bill changes the law in two key ways: (1) it clarifies that an adjunct who receives a letter which conditions future employment on enrollment, funding or program changes is presumed not to have a reasonable assurance of continued employment, because the letter is, in fact, evidence of the contingent nature of a job, and (2) it puts the burden on the employer to provide sufficient documentation to overcome this presumption.

In many cases, part-time adjunct faculty with conditional job offers find their classes are cancelled in late August—by which time they have lost weeks or months of unemployment benefits that cannot be granted retroactively. Current law actually provides an incentive to colleges and universities to wait as long as possible to officially disclose to part-time faculty that they will not be employed for the upcoming semester. This is done by the college as a means of avoiding paying unemployment insurance costs for those employees between semesters.

Adjunct faculty typically earns \$25,000 to \$30,000 per year from teaching, and frequently must patch together courses at multiple colleges and universities in order to make ends meet. They are like workers in the construction, theater arts or seasonal resort industries that have periodic and irregular work. The unemployment insurance system was designed to serve these workers. In both the California and Washington State, state legislatures have passed laws to protect access to unemployment insurance for part-time adjunct faculty. New York should too.

Only a small fraction of adjuncts will be eligible for Unemployment Insurance upon passage of this legislation. The vast majority of adjunct faculty are employed full-time elsewhere, work year-round as adjuncts, or work part-time at other jobs and, therefore, are ineligible for unemployment benefits.

PSC STRONGLY URGES THE ENACTMENT OF THIS LEGISLATION.

Up: 5/08/13
By: FC