

WAC 192-210-015 How will the department decide if an individual has a contract or reasonable assurance of future work?—See RCW 50.44.053.

(1)(a) For individuals who perform services in a professional capacity, wages and hours from an educational institution or educational services district will count towards the individual's base year and benefit year unless the educational institution or educational services district shows it is highly probable that the individual meets the three prerequisites in subsection (2) of this section and the educational institution or educational services district shows it is highly probable that the individual either has a contract for future work under subsection (3) of this section or reasonable assurance of future work under subsection (4) of this section.

(b) For individuals who perform services in a nonprofessional capacity, wages and hours from an educational institution or educational services district will count towards the individual's base year and benefit year unless the educational institution or educational services district shows it is highly probable that the individual meets the three prerequisites in subsection (2) of this section and the educational institution or educational services district shows it is highly probable that the individual has reasonable assurance of future work under subsection (4) of this section.

(c) When determining if an individual has a contract or reasonable assurance of future work, the department will use the facts as they are known at the time the individual filed his or her weekly claim.

(2) In order for there to be a contract or reasonable assurance of future work, the following three prerequisites must be met:

(a) There is a written, verbal or implied offer of employment made by an individual with actual authority to offer employment;

(b) The offer of employment provides that the employee will perform services in the same capacity during the ensuing academic year or term (or remainder of the current academic year or term) as in the first academic year or term; and

(c) The economic conditions of the offer of employment may not be considerably less in the following academic year or term (or portion thereof) than in the first academic year or term (or portion thereof).

(3) A contract for future work is an agreement that is:

(a) Enforceable by both the employer and employee;

(b) Noncontingent; and

(c) Provides for compensation for either:

(i) An entire academic year; or

(ii) On an annual basis.

(4) Reasonable assurance for future work exists if either:

(a)(i) There are no contingencies in the offer of employment that are within the employer's control; and

(ii) After giving primary weight to contingent nature of an offer of employment and considering the totality of the circumstances, it is highly probable that the contingencies contained in the offer of employment will be met and there will be a job available for the claimant in the following academic year or term; or

(b) The individual is tenured or holds tenure track status, unless advised otherwise by the institution of higher education. An individual holds tenure track status if he or she is a probationary faculty employee having an opportunity to be reviewed for tenure.

(5) For the purposes of determining whether reasonable assurance of future work exists under subsection (4) of this section, contingen-

cies considered to be in the employer's control include, but are not limited to, course programming, funding allocation decisions, final course offerings, and facility availability. Contingencies considered to be outside of the employer's control include, but are not limited to, enrollment and the availability of funding from an outside source, such as a grant.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.44.050, 50.44.053 and 50.44.055. WSR 18-19-007, § 192-210-015, filed 9/7/18, effective 10/8/18. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 02-19-009, § 192-210-015, filed 9/5/02, effective 10/6/02. Statutory Authority: RCW 50.12.010, 50.12.040 and 50.20.010. WSR 99-18-066, § 192-210-015, filed 8/31/99, effective 10/1/99.]