

After years of trying we finally got some substantive unemployment legislation passed in NJ. It is not the best, but it is a start. We are now one of three states (California and Washington) that have some form of protection for adjunct faculty collecting UI benefits. Much of the language comes from the Cervisi decision in California. Colleagues in other states have been waiting for our bill to become law so they can try for the same in their states. And today, Governor Murphy signed the bill, and **it is now LAW!!!**

AFT National, AFTNJ and Sue Tardi need to be thanked for their participation and determination to get this passed.

Below is the section that mostly applies to us-

"Reasonable assurance" means a written, verbal, or implied agreement that the employee will perform services in the same capacity during the ensuing academic year or term as in the first academic year or term. A person shall not be deemed to be performing services "in the same capacity" unless those services are rendered under the same terms or conditions of employment in the ensuing year as in the first academic year or term.

An individual who is tenured or holds tenure track status is considered to have reasonable assurance, unless advised otherwise. For the purposes of this subsection, tenure track status means a probationary faculty employee having an opportunity to be reviewed for tenure.

A person is presumed not to have reasonable assurance under an offer that is conditioned on enrollment, funding, program changes, or other circumstances under the control of the employer. It is the employer's burden to provide sufficient documentation to overcome this presumption. Reasonable assurance shall be determined on a case-by-case basis considering the totality of circumstances rather than on the existence of any one factor. For an individual to be regarded as having

reasonable assurance of employment, the totality of circumstances must show that it is highly probable that there is a job available for the employee in the following academic year or term. If any contingencies in the employment offer are within the employer's control, the claimant shall not be regarded as having a reasonable assurance of employment. Contingencies within the employer's control include, but are not limited to, enrollment, funding, including appropriations and the allocation of funding, program changes, final course offering, and facility availability] As used in this subsection (g) in order for there to be a “reasonable assurance” all of the following requirements shall be met:

(A) The educational institution has made an offer of employment in the following academic year or term that is either written, oral, or implied;

(B) The offer of employment in the following academic year or term was made by an individual with actual authority to offer employment;

(C) The employment offered in the following academic year or term shall be in the same capacity;

(D) The economic conditions of the employment offered may not be considerably less in the following academic year or term than in the then current academic year or term. For the purpose of this paragraph, “considerably less” means that the claimant will earn less than 90 percent of the amount the claimant earned in the then current academic year or term;

(E) The offer of employment in the following academic year or term is not contingent upon a factor or factors that are within the educational institution’s control, including but not limited to, course programming, decisions on how to allocate available funding, final course offerings, program changes, and facility availability; and

(F) Based on a totality of the circumstances, it is highly probable that there is a job available for the claimant in the following academic year or term. If a job offer contains a contingency, primary weight should be given to the contingent nature of the offer of employment. Contingencies that are not necessarily within the educational institution's control, such as funding, enrollment and seniority, may be taken into consideration but the existence of any one contingency should not determine whether it is highly probable that there is a job available for the claimant in the following academic year or term.

(6) Determinations by the department whether claimants have a "reasonable assurance" shall be done on a case-by-case basis.

(7) Each educational institution shall provide the following to the department, in a form, including electronic form, prescribed by the commissioner, no less than 10 business days prior to the end of the academic year or term:

(A) A list of all employees who the educational institution has concluded do not have a reasonable assurance of employment in the following academic year or term, along with information prescribed by the commissioner regarding each such employee, which information shall include, but not be limited to, name and social security number; and

(B) For each employee that the educational institution maintains does have a reasonable assurance of employment in the following academic year or term, a statement explaining the manner in which the employee was given a reasonable assurance of employment, that is, whether it was in writing, oral, or implied, and what information about the offer, including contingencies, was communicated to the individual.

(8) The statement required under subparagraph (B) of paragraph (7) of this subsection (g) may be used by the department in its analysis under paragraphs (5) and (6) of this subsection (g), but it does not conclusively demonstrate that the claimant has a reasonable assurance of employment in the following academic year or term.

(9) Failure of an educational institution to provide the statement required under subparagraph (B) of paragraph (7) of this subsection (g) not less than 10 business days prior to the end of the academic year or term shall result in a rebuttable presumption that the claimant does not have a reasonable assurance of employment in the following academic year or term. This rebuttable presumption shall give rise to an inference that the claimant does not have a reasonable assurance of employment in the following academic year or term, but shall not conclusively demonstrate that the claimant does not have a reasonable assurance of employment in the following academic year or term.