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Unemployment Changes from This Legislative Session Impact School Districts

HB 2455, known as the Illinois Work Jobs Program Act, was one of many pieces of legislation recently approved by the Illinois General Assembly to address the impact of COVID-19. A key element of HB 2455 was its amendment to the Illinois Unemployment Insurance Act as it relates to academic employees.

1. What changes did HB 2455 make to the availability of unemployment compensation for education support personnel?

Generally, academic employees, including teachers, administrators, and support personnel, are *not* eligible to receive unemployment benefits between academic terms, so long as they have reasonable assurance of being re-hired or re-employed for the following school term. However, HB 2455 lifts this restriction for education support personnel.

Under HB 2455, an individual employed by a school district as an education support personnel during the 2019-2020 school year may be eligible for unemployment benefits during the current summer recess, even if he or she anticipates being employed by the school district for the upcoming 2020-2021 school year. This benefit may be available to an eligible ESP from March 15, 2020 through December 31, 2020.

2. Which employees may be eligible for unemployment under HB 2455?

HB 2455 applies to educational employees not considered “instructional” or “administrative.” This would include paraprofessionals, teaching assistants, food service workers, bus drivers, custodians, and other education support personnel employed by a school district.

Notably, an ESP is only eligible if he or she is considered unemployed. Thus, any ESP who has already been notified that he or she will *not* be employed by the district next fall is eligible for unemployment benefits – regardless of the amendment created under HB 2455. This could include ESPs who were subject to a reduction in force in the spring of 2020.

For those ESPs anticipating a return to work in the fall, though, only those who are “school term” employees or who work under 9- or 10-month contracts will be considered potentially eligible. Any ESP working under a 12-month contract would *not* be eligible for this benefit.

The amendment to the Illinois Unemployment Insurance Act also limited eligibility to ESPs “otherwise eligible for [unemployment] benefits.” Thus, an argument can be made that ESPs who are not actively searching for other employment during this summer recess are not “otherwise eligible” for unemployment benefits under the Act. Importantly, the Director of the Illinois Department of Employment Security (IDES) has been given authorization to adopt rules relaxing this general unemployment requirement. However, to date this requirement remains in place and may serve as a hurdle for ESPs seeking unemployment under HB 2455’s amendment to the Illinois Unemployment Insurance Act.

3. *How will school districts pay for any unemployment claims made under this new provision?*

HB 2455 further revised the Illinois Unemployment Insurance Act to provide financial relief for employers subject to unemployment claims under the new amendment. For districts considered “contributing employers” – i.e. they contribute to the State’s unemployment insurance program – HB 2455 provides that these additional claims will not increase their contribution rate. The only caveat to this rule that the district must be able to show that the unemployment claim was made as a direct or indirect result of COVID-19. Alternatively, for districts considered “reimbursable employers” – i.e. they make direct unemployment payments, rather than contribute to the State’s unemployment insurance program – HB 2455 provides that they will only be responsible for 50% of the benefit paid. Again, the caveat being that the district must be able to show the unemployment claim was made as a direct or indirect result of COVID-19.

4. *When will HB 2455’s changes to the Unemployment Insurance Act go into effect?*

Both the Illinois House and Senate have approved HB 2455 and the bill has been sent to the Governor for approval. Once signed, the amendment to the Illinois Unemployment Insurance Act goes into effect immediately.











Importantly, the amendment may be retroactively applied. Therefore, benefits may be available for the weeks between March 15, 2020 and December 31, 2020 where an ESP was considered unemployed. However, any ESP employed for the duration of the 2019-2020 school year and who has a reasonable assurance of employment with the district for the 2020-2021 school year would not be eligible for any benefits until the 2019-2020 school year ended.

The total implications of HB 2455’s amendment to the Illinois Unemployment Insurance Act remain unknown and may continue to evolve in the coming weeks. What is clear, however, is that some ESPs may be eligible for unemployment benefits during summer break – even if you intend to re-hire them for the upcoming school year. As new developments arise related to HB 2455’s impact on unemployment benefits, we will continue to keep you updated.



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Kriha Boucek is an education law firm dedicated to representing boards of education, public school districts, special education cooperatives, charter schools, and private schools with offices in Oak Brook and Edwardsville, Illinois.

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