

IDES RELEASES GUIDANCE ON UNEMPLOYMENT BENEFITS FOR NON-PROFESSIONAL STAFF

Last month, Governor Pritzker signed Public Act 101-633 into law. As we [previously reported](#), this new law permits a school district employee who does not provide “instructional, research, or principal administrative services” (e.g. a 9 or 10 month custodian, paraprofessional, cafeteria worker, bus driver, or clerical worker) to receive unemployment benefits for any week of unemployment from March 15, 2020 through December 31, 2020, regardless of whether the employee has a reasonable assurance of returning to work for the 2020-21 school year. A non-professional school employee is therefore able to receive unemployment benefits during summer vacation, even if he or she has been offered employment for the 2020-21 school year, so long as he or she is otherwise eligible for unemployment benefits. Similarly, a non-instructional employee may be able to receive benefits during school vacation periods and holiday recesses occurring prior to December 31, 2020, even if he or she is employed.

On June 30, the Illinois Department of Employment Security (“IDES”) released guidance interpreting and providing further clarification on how this new law will be implemented and enforced. First, IDES confirms that non-professional staff with a reasonable assurance of future employment may qualify for unemployment benefits. Accordingly, IDES indicates it will not adjudicate an employer’s protest premised on its argument that a non-professional employee with a reasonable assurance of employment cannot receive benefits. However, neither the statute nor IDES guidance suggest that other eligibility requirements (such as actively seeking employment) are inapplicable. School districts can still protest unemployment claims on these grounds.

Second, IDES requests that schools fill out an academic reporting form (which can be found [here](#)) listing all administrative and professional staff with a reasonable assurance of returning to school next school year. As professional employees, these individuals cannot receive unemployment benefits between school terms. If a school district submits this form, IDES will not require a separate response protesting a professional employee’s request for benefits between school terms.

Third, IDES indicates that educational institutions who contribute to the State’s unemployment insurance program will not be charged for benefits, while school districts who make direct unemployment payments will be charged for 50% of the benefits (with an opportunity for full reimbursement under the CARES Act). Notably, the IDES guidance does not reference Public Act 101-633’s provision that these charging rates only apply “to the extent that the employer can show that the individual’s unemployment for the week was directly or indirectly attributable to COVID-19.” To the extent these rates apply, however, IDES indicates that they will be processed in conjunction with the quarterly Statement of Amount Due for Benefits Paid (form BEN-118R) for reimbursable employers, or a Statement of Benefit Charges (form BEN-118) for contributing employers.

On July 8 from 10:00-11:00 a.m., IDES and its chief legal counsel are hosting a webinar to review the guidance and answer any related questions.

Our firm will continue to provide updates as they become available. If you have any questions, please contact one of our attorneys.