

# WE ARE YOUR DOL



Department  
of Labor

## UNEMPLOYMENT INSURANCE

Important Information for Employees Leaving Government Service

If you lose a government position and are no longer employed, you may be able to get Unemployment Insurance benefits. Certain government employees are not eligible for benefits. However, you may be eligible even if you worked in a non-competitive or exempt position.

### ELIGIBILITY

The Unemployment Insurance Program provides benefits to people who:

- Have enough employment and wages to establish a claim
- Are unemployed through no fault of their own
- Are ready, willing and able to work
- Are actively seeking work

Please see our Frequently Asked Questions page at: <https://labor.ny.gov/ui/faq.shtm> for more information.

### WAGES EARNED BY A PUBLIC OFFICIAL

Your eligibility for benefits depends on the wages you earned, among other factors. Wages earned by a public official for certain types of work cannot be used to establish an Unemployment Insurance claim. We must review your employment to determine if your wages are usable for a claim.

Wages earned from jobs listed below may be used to establish a claim:

- Hourly position
- Seasonal position
- Labor class position
- Competitive civil service position
- Non-competitive, tenured position
- Secretarial or clerical position, where you did not participate in policymaking or advisory functions
- Legislative aide or assistant, where you did not participate in policymaking or advisory functions

- Administrative assistant, where you did not participate in policymaking or advisory functions

Wages earned from jobs listed below may not be used to establish a claim:

- Elected official
- Member of a legislative body or of the judiciary (legislative positions or justices only)
- Member of the New York State National Guard or Air National Guard (unless you performed your service as a regular state employee)
- Temporary hire due to fire, storm, snow, earthquake, flood or similar emergency
- Official in a major, non-tenured policymaking or advisory position
- A person in policymaking or advisory position whose official duties did not require more than eight hours per week to perform

If we need more information about your job duties, we may send you a questionnaire. If we decide that your wages are not usable and you disagree, you have the right to request a hearing. Instructions for requesting a hearing will be on the Notice of Determination we mail to you. They are also in the Unemployment Insurance Claimant Handbook (available on our website at: [www.labor.ny.gov](http://www.labor.ny.gov)).

**Please note:** Being designated a policymaker by your agency does not necessarily make you ineligible. The position must be a major policymaking or advisory position. If you had other jobs outside of public service in the 18 months before you file your claim, wages from those jobs may be used to establish a claim. This is true even if wages from your government job cannot be used.

- If you are eligible for benefits and also hold a part-time government job, you must report any day you perform any work in your position. This is true even if you work for an hour or less and even if you do not receive pay.
- Your weekly benefits are reduced by 25% for each day you provide any public service; this may include, but is not limited to, going to a meeting or doing constituent outreach
- If you do not report all work when you claim weekly benefits, you may be subject to severe penalties; this includes the loss of benefits, civil and criminal penalties and fines

## MAJOR NON-TENURED POLICYMAKING AND ADVISORY POSITIONS

These positions generally:

- Are at the highest level of government
- Have responsibilities that affect the entire government entity
- Have the independent authority to create policy or advise major policymakers on formulating policy
- Are appointed by and report to the top executive officers of the government entity
- Are not protected against dismissal without just cause (non-tenured)

For more details about “major non-tenured policy making and advisory positions,” see our website at: <https://dol.ny.gov/unemployment-guidance-government-employees>

## FILING AN UNEMPLOYMENT INSURANCE CLAIM

You may file your claim online website at: [www.labor.ny.gov/signin](http://www.labor.ny.gov/signin). Or, call the Telephone Claims Center toll-free at **1-888-209-8124**.

For more details, visit our website at: [https://labor.ny.gov/ui/how\\_to\\_file\\_claim.shtm](https://labor.ny.gov/ui/how_to_file_claim.shtm).

## FREQUENTLY ASKED QUESTIONS:

**Q.** Must I report work performed as a public official when claiming Unemployment Insurance benefits?

**A.** You must report any days you work or perform services or activities as an elected official when you claim weekly benefits. This is regardless of the type of work, the amount of time you worked each day, or whether you earned any money or other payment. All work, even an hour or less, must be declared as work.

### Exceptions include:

- Jury duty
- Inactive duty for training with a branch of the military
- Weekly or monthly drill sessions for the National Guard or U.S. military reserves

**Q.** I work for the local school board and my duties are confined to specific evenings of the year. However, I am receiving an annual stipend. Am I considered to be employed throughout the year?

**A.** Since your services are not of a continuous nature, you are only considered employed on the actual days you work.

**Q.** I am an appointed tax assessor and work a specific four-month period. Am I considered to be employed throughout the year?

**A.** Since your services are not of a continuous nature, you are only considered employed during the four-month period in which you perform your duties.

**Q.** I am a city commissioner of safety and I am on call 24 hours a day. However, I am not always called to work. On the days I am not called, am I still considered to be employed?

**A.** Since you are on call 24 hours a day, you are considered to be continuously employed. Therefore, you are not eligible for benefits.