

9 Questions on Return to Work Agreements

This is intended as general guidance for classified or hourly staff only, and should not be considered legal advice.

1 What is a Return to Work Agreement (“RTWA”) and what are my obligations if I sign one?

There exist several versions of the RTWAs. The general concept seen in all is that the employee receives compensation during the school closure in exchange for an agreement to not seek other employment and to return to work for at least six months if the school reopens.

2 If I sign a RTWA, how much am I paid and do I receive health and dental insurance coverage?

Some RTWAs provide that the employee will receive 50 percent of their average weekly earnings, but not health or dental insurance coverage. Other RTWAs provide full pay at the employee’s “regular rate and expected hours” plus continued health, dental and other benefits under same terms provided before the school closure. Employees are not paid overtime under RTWAs. Employees should confirm with their administrator the exact amount they will be paid under a RTWA.

3 If I sign a RTWA, am I required to work during the school closure and in the summer?

Possibly, if not likely. Some RTWAs are silent with respect to continued work. Other RTWAs require the employee to be available and report to work anytime during the term of the RTWA, which could include the summer. It is recommended that employees discuss with the administration their expectations regarding continued work before signing a RTWA.

4 What happens if I do not return to work for at least six months as required by a RTWA or refuse to perform requested duties?

Employees who do not return to work for at least six months agree that the school district may deduct from their pay any amounts paid under the RTWA. Some RTWAs become void if the employee refuses to perform duties as requested.

5 Can my employment be terminated even if I sign a RTWA?

Yes. RTWAs provide that the employee’s at-will employment status is not changed and they may be terminated for any lawful reason.

6 How can I protect my best interests if I sign a RTWA?

RTWAs create the potential for abuse by administrators. Employees should carefully document and track all time spent either at home or at the school building providing services for the school. In addition, employees should document and confirm in writing administrative directives to work.

7 If I do not sign a RTWA, what other options do I have if my school district does not pay me during the school closure or if my employment ends?

Other than seeking alternative employment, one option is to apply for unemployment benefits. Under new unemployment laws that are intended to make benefits more accessible, employees may be eligible for unemployment benefits even if they are placed on unpaid leave. The one-week waiting period and work search requirements have also been waived.

8 What do I receive if I’m approved for unemployment?

Unemployment benefits are paid weekly and are equal to one-half of the employee’s average weekly wage that they received while employed but cannot exceed \$440 per week. An employee’s average weekly wage is generally determined by dividing their highest quarterly earnings by 13. Unemployment benefits are paid up to 26 weeks and are subject to continued eligibility. Unemployment benefits do not include health and dental insurance.

For example, an employee’s highest quarterly earnings is \$10,000. Average weekly wage: $\$10,000 \div 13 = \769 . Unemployment benefit: $\$769 \div 2 = \$385/\text{week}$.

Note that although it is unclear at this time, an employee may be disqualified from unemployment benefits if they decline a RTWA. The chances of disqualification may be higher for declining a RTWA that offers full pay and benefits.

9 Should I sign a RTWA?

This largely depends on the employee’s personal situation, availability of other employment and their willingness to work during the school closure and summer months. The employee should consider whether unemployment provides greater benefits than a RTWA, which may be true for RTWAs that pay 50 percent of average weekly rates and no health/dental insurance. RTWAs which offer full pay and benefits can provide needed financial security during these uncertain times.

Further questions? Contact your NSEA Organizational specialist at 1-800-742-047.

