

The Struggle for Unemployment Benefits in Illinois

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The process in Illinois

- ▶ Few contingents file
 - Few aware that this even an option – need to build awareness
 - Others think it doesn't apply to them (it's for blue-collar workers)
- ▶ Those who do often have their eligibility challenged by their employers
 - Not always – some have slipped through the cracks
 - Possible trend of more employers routinely challenging eligibility (they're becoming aware)

Eligibility Questioned

- ▶ Mailed notice of “local office interview”
- ▶ The interviewer asks a set of questions focused on *pattern* of employment
 - This *pattern* is taken as evidence of “reasonable assurance”
 - Interview doesn’t focus on contractual terms
- ▶ Pivotal question is “Do you believe that you will have employment with this employer in the fall?”
- ▶ Citing contract provisions or assignment letters that indicate that there is no guarantee of continued (or this) assignment generally ignored.

Eligibility Denied

“The claimant has earned wages for employment in an educational institution during the base period and has filed for unemployment insurance benefits for a period between two successive academic years and has performed services in the first of such academic years or terms.

Under the provisions of Section 612 of the Illinois Unemployment Insurance Act, an individual is ineligible for benefits on the basis of wages for employment from an educational institution for any week between two successive years or terms if the individual either has a contract or has reasonable assurance she will perform such services in the next academic year or term.”

Since the claimant either has a contract or has reasonable assurance that he/she will perform such services in the next academic year or term, the claimant is ineligible for benefits under the provisions of Section 612.”

Appeals and Illinois Precedent

- ▶ A few who've been denied eligibility after the phone interview have appealed
- ▶ Some have had success; most have not
- ▶ Barrier in Illinois is Campbell decision (1991)
 - appellant had letters from department chairman saying there was no guarantee of continued assignment
 - ruling was that pattern of employment indicated "reasonable assurance"
 - this often cited in appeals (and seems to have influenced eligibility interview)
 - IEA legal believes this a fundamentally-limiting precedent

The Strategy in Illinois

- ▶ Idea for filing parties came up at Illinois Higher Education Conference Oct. 2007
 - Got funding through NEA Contingent Action Plan
 - NEA also joined AFT and AAUP in funding publication of “Access to Unemployment Insurance...” booklet
- ▶ Two major parts of strategy
 - “Filing parties” (group mobilization)
 - Legislative (change the law in Illinois)
 - Court challenge seen as fruitless
 - Both parts of strategy require mobilizing parent unions

Filing parties

- ▶ After training in March 2008, first parties held in May 2008
 - Basically info sessions – build awareness among contingent faculty and offer practical advice on how to file
 - Tried to be clear about difficulties, but some expected it to be easy
 - Got written advice from IEA on how to handle appeals
- ▶ Goals
 - Get benefits for some (the lucky few)
 - Put “sand in the gears” for the Illinois Department of Employment Security
 - Builds up evidence of demand for benefits and injustice of routine denial

The “legislative” strategy

- ▶ Litigation strategy problematic (IEA advised that *Campbell* decision so limiting that court challenges not worth pursuing)
- ▶ Thus, *legislative* strategy:
 - ▶ need to change how *Illinois* interprets the national “reasonable assurance” standard by changing *Illinois* law
 - This analogous to IEA efforts to rewrite labor law in 1990s to allow for organizing of adjuncts after unfavorable court decision (the Harper decision)
 - ▶ IEA lobbyists worked to get a state task force established to look into unemployment benefits (“agreed-upon” path to legislation)
 - Law passed, but task force slow to be established and hasn’t met
 - Likely to take number of years
- ▶ Ultimate solution is legal change at national level, so activists pushed at NEA RA in 2009 to get NEA commitment in legislative platform (successful)
- ▶ Next steps?

The “legislative” strategy – National

- ▶ Changing Illinois’s interpretation of “reasonable assurance” at best a partial solution
- ▶ Ultimate solution is change to *national* law
- ▶ Mobilizing national unions to lobby for change
 - ▶ activists (partiuclarly David Milroy and Beverly Stewart) pushed at NEA RA in 2009 to get NEA commitment in legislative platform (successful)
 - ▶ Similar efforts in AFT
- ▶ Next steps?
 - ▶ Writing legislation
 - ▶ Getting sponsors
 - ▶ Mobilizing to get law actually changed