



ADMINISTRATIVE RULES OF MONTANA



24.40.915 SERVICES IN EDUCATIONAL INSTITUTIONS

- (1) Individuals who perform services for an academic institution in an instructional, research, or principal administrative capacity include the following:
 - (a) Individuals in an instructional capacity include teachers in formal classrooms and seminars, tutors, and those who direct or assist students in research and learning.
 - (b) Individuals in a research capacity include those who direct a research project and those staff directly engaged in gathering, correlating, and evaluating information and making findings.
 - (c) Individuals in a principal administrative capacity include school principals, school superintendents, officers of the institution, the board of directors, business managers, deans, associate deans, university public relations directors, comptrollers, development officers, chief librarians, registrars, and any individuals who, although they may lack official titles, actually serve in a principal administrative capacity.
- (2) "Reasonable assurance" means that there is a written, oral, or implied agreement that the individual will perform services in the same capacity in the next academic year or term.
- (3) An individual who performed services in the first academic year or term has reasonable assurance if the educational institution gave the individual a bona fide offer of the same job in the same capacity for the next academic year or term, whether or not the individual accepts the bona fide offer.
- (4) An individual who performed services in the first of any two academic years or terms for an educational institution has reasonable assurance of performing services in the same capacity in the second academic year or term, regardless of the following:
 - (a) the individual is required to reapply for a position;
 - (b) the individual has advised the institution of the individual's intention not to return to employment in the subsequent academic year or term; or
 - (c) the educational institution has advised the individual or the department that employment in the next academic year or term is contingent upon adequate funding or enrollment.
- (5) An individual does not have reasonable assurances in the following circumstances:
 - (a) if the economic terms and conditions are substantially less than the economic terms and conditions of the job in the previous academic year or term; or
 - (b) if an educational institution advised the individual or the department that employment in the next academic year or term is contingent upon adequate funding or enrollment; and

- (i) the individual has been given unequivocal notice that the individual will not be rehired for the subsequent academic year or term;
 - (ii) the department determines that there is not a pattern, either as to the particular individual or as to the class of employees to which the individual belongs, of such notice being followed by subsequent reemployment by the educational institution; and
 - (iii) the department determines that there is not substantial evidence of a continuing employment relationship between the individual and the educational institution during the period between the first and next academic years or terms, including but not limited to, the continuance of employee benefits during the period.
- (6) If the department determined that an individual did not have reasonable assurances, and the individual was later given reasonable assurances, any benefits that were paid to the individual based on the initial determination of no reasonable assurances shall cease starting on the date the individual received reasonable assurances.
- (7) If the department determined that an individual had reasonable assurances, but the individual continues to be unemployed when the academic year or term begins, the individual may be allowed benefits:
 - (a) from the date the offer of employment was withdrawn; or
 - (b) from the date the claimant was given reasonable assurance if it is determined that the original offer of employment was not a bona fide offer.
- (8) Individuals at educational institutions or educational service agencies who are customarily employed for the educational institution or educational service agency during the period between academic years or terms or during customary vacation periods or holiday recesses within terms are not subject to the provisions of 39-51-2108, MCA.

Authorizing statute(s): 39-51-301, 39-51-302, MCA

Implementing statute(s): 39-51-2108, MCA

History: NEW, 2024 MAR p. 1458, Eff. 7/1/24.