NONMONETARY ELIGIBILITY

IN GENERAL

Along with monetary requirements, each state's UI law requires workers to meet nonmonetary requirements. Federal law mandates some of these requirements. The general rule is that workers must have lost their jobs through no fault of their own and must be able, available, and actively seeking work. By examining the workers current attachment to the labor force, these provisions delineate the type of risk covered by UI law – primarily, unemployment caused by economic conditions.

This chapter is organized from the perspective of a worker experiencing the claim process. First, the state would determine if there are any issues related to the worker becoming unemployed. Second, issues related to week-by-week eligibility would be explored. Third, the state would explore whether the worker received any "deductible income" causing a reduction in benefits payable.

Caution: Nonmonetary requirements are, in large part, based on how a state interprets its law. Two states may have identical laws, but may interpret them quite differently.

Usage Note: There is often a distinction between issues that result in disqualification and issues that result in weeks of ineligibility. A disqualified worker has no right to benefits until s/he requalifies, usually by obtaining new work or by serving a set disqualification period. In some cases benefits and wage credits may be reduced. An ineligible worker does not receive benefits only as long as the condition that causes ineligibility exists. Eligibility issues are generally determined on a week-by-week basis.

SEPARATIONS

VOLUNTARILY LEAVING WORK—Since the UI program is designed to compensate wage loss due to lack of work, voluntarily leaving work without good cause is an obvious reason for disqualification from benefits. All states have such provisions.

In most states, disqualification is based on the circumstances of separation from the most recent employment. These disqualification provisions may be phrased in terms such as "has left his most recent work voluntarily without good cause." In a few states the agency looks to the causes of all separations within a specified period. A worker who is not disqualified for leaving work voluntarily with good cause is not necessarily eligible to receive benefits. For example, if the worker left because of illness or to take care of illness in the family, the worker may not be able to or available for work. This ineligibility would generally last only until the individual was again able and available.

Good Cause for Voluntarily Leaving—In all states workers who leave their work voluntarily must have good cause if they are not to be disqualified.

In many states, good cause is explicitly restricted to good cause connected with the work, attributable to

the employer, or involving fault on the part of the employer. However, in a state where good cause is not explicitly linked to the work, the state may interpret its law to include good personal cause or it may limit it to good cause related to work. Since a state law limiting good cause to the work is more restrictive, it may contain specific exceptions that are not necessary in states recognizing good personal cause. (For example, an explicit provision not disqualifying a person who quits to accompany a spouse to a new job might not be necessary in a state which recognizes good personal cause; it would be necessary in a state restricting good cause to that related to the work.)

The following table identifies states that restrict good cause for quitting to reasons connected to work.

Table 5-1: VOLUNTARILY LEAVING – MUST BE CONNECTED TO WORK (43 STATES)					
State	**Basis**	**State**	**Basis**	**State**	**Basis**
Alabama	L	Louisiana	L	Ohio	L
Arizona	L	Maine	L, R	Oklahoma	L
Arkansas	L	Maryland	I	Oregon	L, R
Colorado	L	Massachusetts	L	Puerto Rico	I
Connecticut	L	Michigan	I	South Carolina	I
Delaware	L	Minnesota	L	South Dakota	I
District of Columbia	L	Missouri	L	Tennessee	L
Florida	L	Montana	L, R	Texas	L
Georgia	L	Nebraska	L	Utah	R
Idaho	L, R	New Hampshire	L	Vermont	L
Illinois	L	New Jersey	I	Washington	L
Indiana	L	New Mexico	L	West Virginia	L
Iowa	L	North Carolina	L	Wisconsin	I
Kansas	L	North Dakota	L	Wyoming	L
Kentucky	L	KEY: L = law; R = regulation; I = interpretation.			

The following table indicates common "good cause" provisions. Other provisions are discussed in the text following the table.

Table 5-2: VOLUNTARILY LEAVING – GOOD CAUSE									
State	**Leaving To Accept Other Work**	**Compulsory Retirement**	**Sexual Or Other Harassment**	**Domestic Violence**	**Worker's Illness**	**To Join Armed Forces**	**To Marry**	**To Move With Spouse**	**To Perform Marital, Domestic, Or Filial Obligations**
AL	L				L			L 2/	
AK	I	I	I	I	I	I			
AZ	R	R 1/	R	L	R	I			
AR	I	I	I	I	L	I			3/
CA	R	L, R	L	L	R			L 5/	
CO	L	L	L	L	L	I	21/	21/	L
CT		R	R	L	I				
DE		I	I	I	L				
DC			R	L	R				
FL		I	I		L			2/	
GA									
HI	R	R							
ID	L, R	L, R	L		L, R	L			
IL	L	I	L	I	L	I			4/
IN	L	L	L	L	L	L		L	
IA	L	R	I	I	L	R			
KS	L	L	L	L	L	L		L 5/	
KY	L	R	R	R	R	R			
LA	I	I	I	I	I	I			
ME	L, R		L, R	L, R	L, R			6/	
MD	L		I					22/	
MA	L	L	L	L	L	L			I 7/
MI	L	I	I	I	I	I			
MN	L	I	L	L	L	I			

Table 5-2: VOLUNTARILY LEAVING – GOOD CAUSE

State	Leaving To Accept Other Work	Compulsory Retirement	Sexual Or Other Harassment	Domestic Violence	Worker's Illness	To Join Armed Forces	To Marry	To Move With Spouse	To Perform Marital, Domestic, Or Filial Obligations
MS	L	L			L			I 2/	
MO	L	I	I	I	I	I		8/	
MT	L, R	I	L, R	L	L				
NE	I	I 1/	L	L	R	I			
NV	L	I	I	I	I	I		I 2/	I 9/
NH	L	R		L, R	L, R				
NJ	I	I	I	L	R	I	L	L	
NM	I	I	I	I	I	I		I 2/	
NY	I	I	I	L	I	I	I	I	
NC			L	L	L			2/ 23/	10/
ND	I	I	I	I	L	I			11/
OH	L	I	I		I	L	24/		24/
OK	I	I 1/	I	L	L				12/
OR	R	I	I	L	L, R	I	I 13/	I 13/	I 13/
PA	I	I	I 27/	I	I 27/	I		I 14/	I 15/
PR	I	I	I	I	I				
RI	I	L 1/	L	L	I	I		16/	
SC			I						
SD	I	I	I	L	L	I			
TN		I	I			L			
TX	I	I	I	L	L	L		17/	
UT	R	I 1/	R	I	R	I			I
VT				I					
VA	I	I 1/	I	I	I	I			19/
VI	I	I	I	I	I	I		I	18/
WA	L	I	L	L	L	I		L 2/	L 25/
WV			I		L		26/		26/
WI	I		L		L	I			20/
WY	I	I	I	L	L	I			

KEY: L = law; R = regulation; I = interpretation.

1/ Separations due to compulsory retirement are addressed under the misconduct section of the rules. These separations are considered a discharge for reasons other than misconduct.
2/ Only for certain military spouses.
3/ Limited to pregnancy, personal compelling emergency.
4/ Leave work upon advice of physician to care for spouse, child, or parent who is in poor physical health.
5/ If spouse was transferred or accepted new work at a location beyond a reasonable commuting distance.
6/ If necessary to accompany, follow, or join spouse in new place of residence.
7/ Urgent, compelling, and necessitous if due to poor health of spouse or to recover from an ailment.
8/ Only if claimant and spouse have the same employer.
9/ Compelling family circumstances.
10/ If undue family hardship resulting from working hours.
11/ If worker is outside the US and loses sponsorship.
12/ Medically certified illness of claimant's child.
13/ Only if alternatives are pursued.
14/ Only if reason for move was circumstances beyond spouse's control and there were insurmountable economic circumstances.
15/ If reason was necessitous and compelling and claimant exhausted all available alternatives.
16/ Rhode Island law has special disqualification provisions for this issue. The law specifies that only individuals who quit to follow a spouse who has retired are disqualified until they worked for 8 weeks and earned 20 times the minimum wage.
17/ Texas law has special disqualification provisions for this issue. Individuals who quit to move with spouse are disqualified for 6-25 weeks.
18/ Uses a responsible person test such as: Would failure to move break up the marriage/family?
19/ Case law includes caring for ill and enfeebled parents, need for ongoing care. Doctor's note in all cases. Must look to whether the claimant would be available and able to work.
20/ If claimant unable to do work due to health of member of immediate family, but must be available for work. Or, if quit because of shift change which results in loss of child care, but must be available for work on original shift.

21/ Colorado law has special disqualification provisions for these issues. The law specifies that moving with spouse is expressed as moving to maintain contiguity with another person or persons. Individuals who quit to marry or quit to follow their spouse will be disqualified for up to 25 weeks.
22/ Maryland law has special disqualification provisions for this issue. The law specifies that individuals who quit to move with spouse are disqualified until they earn 15 times their WBA.
23/ North Carolina law has special disqualification provisions for this issue. The law specifies that quitting to move with spouse results in disqualification until individuals had employment for five weeks.
24/ Ohio law has special disqualification provisions for these issues. The law specifies that quitting to marry or quitting to perform marital, domestic, or filial obligations results in disqualification until individuals earn $60 or ½ AWW, if less.
25/ For illness, death, or disability of a member of claimant's immediate family only if claimant pursued all reasonable alternatives to preserve employment.
26/ West Virginia law has special disqualification provisions for these issues. The law specifies that individuals who quit to marry or to perform marital, domestic, or filial obligations are disqualified until they worked 30 days in insured employment.
27/ Claimant must notify employer and try to resolve the issue before leaving. Claimant must inform employer of limitation before leaving.

Other Good Cause Provisions—Several states also specify various circumstances relating to work separations that, by statute, require a determination that the worker left with good cause. Arizona and Connecticut do not disqualify a worker for voluntarily leaving because of transportation difficulties. Several states do not disqualify workers for voluntarily leaving if they left work to accompany their spouse to a place from which it is impractical to commute. Arizona does not disqualify unemancipated minors for voluntarily leaving if they left work to accompany their parent to a place from which it is impractical to commute. Colorado does not disqualify a worker who was absent from work due to an authorized and approved voluntarily leave of absence. North Carolina does not disqualify a worker for leaving work due to a unilateral and permanent reduction in full time work hours of more than 20% or reduction in pay of more than 15% and does not deny benefits to a worker based on separation from work resulting from undue family hardship when a worker is unable to accept a particular job because the individual is unable to obtain adequate childcare or elder care. In Arkansas, if an employer announces a pending reduction in force and asks for volunteers, individuals who participate are not disqualified; any incentives received are reportable as receipt of other remuneration. Illinois does not deny a worker benefits for giving false statements or for failure to disclose information if the previous benefits are being recouped or recovered.

Some states treat a worker's quitting to attend school as a voluntary quit. See section on Students, page 5-30 of this chapter.

Louisiana does not apply the voluntarily leaving disqualification if a worker left part-time or interim employment in order to protect full-time or regular employment. A similar Wisconsin provision says the disqualification will not be applied to a worker who leaves part-time work because of the loss of a full-time job that makes it economically unfeasible to continue the part-time work. Colorado does not disqualify a worker who quits a job outside his/her regular apprenticeable trade to return to work in the regular apprenticeable trade.

Colorado also does not disqualify workers who leave a job because of personal harassment unrelated to the work. In addition, Colorado does not disqualify workers who have separated from employment because they were physically or mentally unable to perform the work.

Good Cause - Relation to Other Laws—California and Michigan specify that a worker leaves a job with good cause if an employer deprived the individual of equal employment opportunities not based on bona fide occupational qualifications. Colorado and Kansas do not disqualify a worker for voluntarily leaving if the individual was instructed or requested to perform a service or commit an act in the course of duties which is in violation of an ordinance or statute. Also, Colorado, Kansas, and Michigan do not disqualify a worker for voluntarily leaving due to hazardous working conditions.

Good Cause and Labor Arrangements—Several state laws explicitly address separations that occur under collective bargaining agreements. California, Colorado, and Illinois do not disqualify a worker who, under a collective bargaining agreement, elected to be laid off in place of an employee with less seniority. Iowa has a

similar provision which does not require a collective bargaining agreement to be in place.

Delaware and New York do not disqualify workers for voluntarily leaving if under a collective bargaining agreement or written employer plan they exercise their option to be separated, with the employer's consent for a temporary period when there is a temporary layoff because of lack of work. Oklahoma, Pennsylvania and Tennessee specify that a worker will not be denied benefits for voluntarily leaving if s/he exercises his/her option of accepting a layoff pursuant to a union contract, or an established employer plan, program, or policy. In Tennessee, however, a worker will be disqualified if the employer provides a monetary incentive (excluding wages in lieu of notice, separation allowance, or similar payment) for the separation which is greater than the maximum amount of benefits a worker would receive. Also, in Georgia and Tennessee, if the separation was due to an agreement that permits the employee to accept a separation from employment, the disqualification will not apply. However, in Tennessee the exclusion mentioned above also applies in this instance.

Kentucky does not disqualify workers for voluntarily leaving if they are separated due to a labor management contract or agreement or an established employer plan, program or policy that permits the employer to close the plant or facility for vacation or maintenance. Also, Kentucky does not disqualify workers for voluntarily leaving their next most recent work which was concurrent with the most recent work, or for leaving work that was 100 miles (one-way) from home to accept work less than 100 miles away, or if the worker left part-time work to accept the most recent suitable work.

Oregon does not disqualify workers for voluntarily leaving if they cease to work or fail to accept work when a collective bargaining agreement between their bargaining unit and their employer are in effect and the employer unilaterally modifies the amount of wages payable under the agreement, in breach of the agreement. Oregon does not disqualify workers for voluntarily leaving work and deems them to be laid off if: the worker works under a collective bargaining agreement; the worker elects to be laid off when the employer has decided to lay off employees; and if the worker is placed on the referral list under the collective bargaining agreement.

In Wisconsin, the voluntarily leaving disqualification will not apply to a worker who terminates work with a labor organization which causes the employee to lose seniority rights granted under a union agreement, and if the termination results in a loss of employment with the employer which is a party to that union agreement.

Good Cause and Suitable Work—Several states have provisions prohibiting the application of the voluntary quit provision if the work was determined not to be suitable employment for the worker.

Illinois does not impose a disqualification if the worker accepted new work after separation from other work and, after leaving the new work, the new work is deemed unsuitable. Michigan and Missouri do not disqualify workers for voluntarily leaving if they leave unsuitable work within 28-60 days after beginning the work (Missouri allows 28 days and Michigan 60 days). Minnesota does not disqualify a worker for voluntarily leaving if the accepted employment represents a departure from the individual’s customary occupation and experience and the individual left the work within 30 days under specified conditions. New Hampshire allows benefits if a worker, not under disqualification, accepts work that would not have been suitable and terminates such employment within 4 weeks. New York provides that voluntarily leaving is not in itself disqualifying if circumstances developed in the course of employment that would have justified the worker in refusing such employment in the first place. North Dakota does not apply the voluntarily leaving disqualification if a worker accepted work which could have been refused with good cause and terminated the employment with the same good cause within the first 10 weeks after starting work. Wisconsin does not apply the voluntarily leaving disqualification if the individual accepts work which could have been refused because of the labor standard provisions and s/he terminates the work within 10 weeks of starting the work.

Colorado does not disqualify if the separation is determined to have been as a result of an unreasonable reduction in pay or as a result of refusing with good cause to work overtime without reasonable advance notice, or as a result of a substantial change in the working conditions.

North Dakota also has a good cause provision for leaving work with the most recent employer to accept a bona fide job offer with a base period employer who laid off the individual and with whom the individual has a demonstrated job attachment. This requires earnings with the base period employer in each of six months during the five calendar quarters before the calendar quarter in which the individual files a claim for benefits.

Wisconsin will not apply the voluntarily quit disqualification if a worker left to accept a job and earned wages of 4 times the weekly benefit amount, and the work offered average weekly wages at least equal to the wages earned in the most recent computed quarter in the terminated employment, or if the hours of work are the same or greater, or if the worker was offered the opportunity for longer-term employment, or if the position was closer to the individual's home than the terminated employment. Also in Wisconsin, a disqualification will not apply if a worker claiming partial benefits left to accept work offering an average weekly wage greater than the average weekly wage in the work terminated.

Good Cause and Jobs for Temporary Service Employers—Several states contain provisions providing that, if an employee of a temporary service employer fails to be available for future assignments upon completion of the current assignment, the worker shall be deemed to have voluntarily left employment without good cause connected to the work. These states require the employer to provide the worker with notice that the worker must notify the temporary service upon the completion of an assignment and that failure to do so may result in benefit denial.

Table 5-3: STATES WITH TEMPORARY WORKERS PROVISIONS

States Where Failure To Contact ER Upon Completion Of Assignment Is Deemed VQ

AR	L	MO	L
CO	L	NE	L
DE	L	NJ	R
FL	L	NY	I
GA	L	ND	L
HI	I	OK	L
ID	L, R	OR	I
IL	L	PA	I
IN	L	PR	I
IA	L	RI	L
KS	L	SC	R
KY	L	SD	I
LA	I	TN	I
ME	L	TX	L
MA	L	UT	I
MI	L	VA	I
MN	L	WV	I

KEY: L = law; R = regulation; I = interpretation.

Period of Disqualification—In most states the disqualification lasts until the worker is again employed and earns a specified amount of wages. In Alaska and Colorado, the disqualification is a fixed number of weeks (in Colorado, only for separations from the most recent employer); the longest period in either of these states is 10 weeks. Nebraska has a variable disqualification of up to 10 weeks. Maryland and North Carolina impose fixed duration disqualifications for certain conditions described in the following table.

Reduction of Benefit Rights—In some states, in addition to the postponement of benefits, benefit rights are reduced, usually equal in extent to the weeks of benefit postponement imposed as described in the table below.

Table 5-4: VOLUNTARILY LEAVING - DISQUALIFICATION			
	Benefits Postponed For:		Amount Of Benefits Reduced
State	Number Of Weeks	Duration Of Unemployment 2/	
AL		10 x WBA 3/	6-12 x WBA
AK	W-5 1/3/		3 x WBA
AZ		5 x WBA	
AR		30 days work	
CA		5 x WBA	
CO	WF + 10		Wage credits from employer are removed from the claim. (Applies to all base-period employers too.)
CT		10 x WBA 4/	
DE		4 weeks of work and 4 x WBA	
DC		10 weeks of work and wages = to 10 x WBA 3/	
FL		17 x WBA 3/	
GA		10 x WBA	
HI		5 x WBA	
ID		12 x WBA	
IL		Wages = to WBA in each of 4 weeks	
IN		Wages = to WBA in each of 8 weeks	By 25%
IA		10 x WBA 3/	
KS		3 x WBA	
KY		10 weeks of covered work & wages = to 10 x WBA 3/	
LA		10 x WBA 3/	
ME		4 x WBA 3/4/	
MD	W + 5-10 1/3/	15 x WBA 1/3/	
MA	3/	8 weeks of work and wages of 8 x WBA	
MI		12 x WBA	
MN		8 x WBA	
MS		8 x WBA	
MO		10 x WBA 3/	
MT		Wages equal to 6 x WBA 1/	
NE	W + 7-10 3/6/		Equal 6/
NV		Wages equal to WBA in each of 10 weeks 4/	

Table 5-4: VOLUNTARILY LEAVING - DISQUALIFICATION

State	Benefits Postponed For:		Amount Of Benefits Reduced
	Number Of Weeks	Duration Of Unemployment 2/	
NH		5 weeks of work in each of which earned 20% more than WBA	
NJ	W + 5		
NM		5 x WBA in covered work	
NY		3 days work in each of 5 weeks and 5 x WBA	
NC	1/	10 x WBA earned in at least 5 weeks 1/	1/
ND		10 x WBA 3/	
OH		6 weeks in covered work + 27.5% of aww. 3/7/	
OK		10 x WBA	
OR		4 x WBA	8 x WBA
PA		6 x WBA	
PR		4 weeks of work and wages equal to 10 x WBA	
RI		20 x minimum hourly wage in each of 8 weeks	
SC	WF + 5-26		Equal
SD		6 weeks in covered work and wages = to WBA in each week 3/	
TN		10 x WBA 3/	
TX		6 weeks of work or wages equal to 6 x WBA 6/	
UT		6 x WBA	
VT	5/	6 x WBA	
VA	WF + 6-12	30 days or 240 hours of work 3/	
VI		4 weeks of work and 4 x WBA	
WA		7 weeks of work and wages in each week of 7 x WBA	
WV	W + 6 3/		Equal
WI	5/	7 weeks and 14 x WBA	Benefit rights based on any work involved canceled
WY		8 x WBA	

KEY: W = Week of separation; WF = Week of filing. "Equal" indicates reduction equal to WBA multiplied by number of weeks of disqualification.

1/ In AK, disqualification is terminated if claimant returns to work and earns at least 8 x WBA. In MT, disqualification is terminated after claimant attends school for 3 consecutive months and is otherwise eligible. In MD, the duration disqualification will be imposed unless a valid compelling or necessitous circumstance exists. In NC, the agency may reduce permanent disqualification to 5 weeks, with a corresponding reduction in total benefits. Also in NC, if an employer gives notice of future work separation, a disqualification of 4 weeks will be imposed if the worker establishes good cause for his failure to work out the notice.
2/ Minimum employment or wages to requalify for benefits.

3/ Separation preceding the most recent separation may be considered if: last employment not considered bona fide work, AL; when employment or time period subsequent to separation does not satisfy potential disqualification, AK, FL, IA, MD, MA, MO, and OH; in LA, to base period or last employer; to most recent previous separation if last work was not in usual trade or intermittent, ME; disqualification applicable to last 30-day employing unit or during 240 hours, VA; if employment was less than 30 days unless on an additional claim, DC, SD, and WV; reduction or forfeiture of benefits applicable to separations from any BP employer, KY and NE; any ER with whom the individual earned 8 x WBA, ND, and 10 x WBA, TN.
4/ In ME, disqualified for duration of unemployment and until claimant earns 6 x WBA if voluntarily retired; In NV, disqualified for W+4 to enter self employment, and for 10 weeks to seek better employment. In CT, voluntary retiree disqualified for the duration of unemployment and until 40 x WBA is earned.
5/ In VT, disqualified for 1-6 weeks if claimant left work due to health reasons. In WI, disqualification for week of termination + 4 weeks if claimant refuses transfer to a job paying less than 2/3 of wage rate.
6/ In NE, a disqualification for the week of separation plus one week if claimant leaves to accept a better job. NE, the number of weeks chargeable to employer involved if less. Disqualification begins with week following filing of claim, TX.
7/ In OH, if claimant left work for compelling domestic circumstances, he/she can requalify by earning the lesser of ½ of AWW or $60, in covered employment.

DISCHARGE FOR MISCONDUCT CONNECTED WITH THE WORK—Provisions for disqualification for discharge for misconduct (which may be called a discharge for "just cause" or "a disqualifying act") follow a pattern similar to that for voluntary leaving. Many states provide for heavier disqualification in the case of discharge for a dishonest or a criminal act, or other acts of aggravated misconduct. (See "Disqualifications for Gross Misconduct" immediately following this section.) Some laws define misconduct in such terms as:

- Deliberate misconduct in willful disregard of the employing unit's interest (Connecticut, Massachusetts, Missouri, Rhode Island, South Dakota and Washington).

- Participation in an illegal strike as determined under state or federal laws. Each instance of an absence for 1 day or 2 consecutive days without either good cause or notice to the employer that could have reasonably been provided (Connecticut).

- Failure to obey orders, rules or instructions or for failure to discharge the duties for which the individual was employed (Georgia).

- A violation of duty reasonably owed the employer as a condition of employment. The failure of the employee to notify the employer of an absence, and under certain conditions, repeated absences resulting in absence from work of 3 days or longer (Kansas).

- A legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct (Kentucky).

- A culpable breach of the employee's duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer (Maine and Missouri).

- Absenteeism or tardiness if it violates the employer's attendance policy and the claimant knew about the policy in advance (Missouri).

- Discharge or temporary suspension for willful misconduct connected with the work (Pennsylvania).

- A willful and deliberate violation of a standard or regulation by an employee of an employer licensed or certified by Virginia, which violation would cause the employer to be sanctioned or have its license or certification suspended (Virginia).

Any action that places others in danger or an intentional violation of employer policy or law, but does not include an act that responds to an unconscionable act of the employer (Texas). Detailed interpretations of what constitutes misconduct have been developed in each state's benefit decisions. In determining what constitutes misconduct, many states rely on the definition established in the 1941 Wisconsin Supreme Court Case, Boynton Cab Co. v. Neubeck:

> "Misconduct . . . is limited to conduct evincing such willful or wanton disregard of standards of behavior which the employer has the right to expect of his employee, or in carelessness or negligence of such degree as to manifest an equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer."

Illegal Drugs and Alcohol—The following table represents states having provisions in their UI law dealing specifically with alcohol and/or illegal drugs and testing for alcohol or illegal drugs.

Table 5-5: STATES WITH DRUG AND/OR ALCOHOL PROVISIONS

State	Workers Will Be Disqualified:
AL	For testing positive for illegal drugs after being warned of possible dismissal; or for refusing to undergo drug testing, or for knowingly altering a blood or urine specimen.
AZ	For refusing to undergo drug or alcohol testing, or having been tested positive for drugs or alcohol.
CT	If discharged or suspended due to being disqualified under state or federal law from performing work for which hired as a result of a drug or alcohol testing program mandated and conducted by such law.
FL	For drug use, as evidenced by a positive, confirmed drug test.
GA	For violating an employer's drug free workplace policy.
KS	For refusing to undergo drug or alcohol testing, for having been tested positive for drugs or alcohol, or for failing a pre-employment drug screen.
KY	For reporting to work under the influence of drugs/alcohol, or consuming them on employer's premises during working hours.
LA	For the use of illegal drugs, on or off the job.
MI	For refusing to undergo drug or alcohol testing, or having been tested positive for drugs or alcohol.
MO	If a claimant is at work and has in his/her system a detectible amount of alcohol or controlled substance in violation of employer's policy; wage credits are subject to cancellation if found to be in violation of such policy. Testing will be conducted under certain conditions.
NH	If an individual is discharged for intoxication or use of drugs which interferes with work, 4-26 weeks.
OK	For refusing to undergo drug or alcohol testing, or having been tested positive for drugs or alcohol.
OR	For failure or refusal to take a drug or alcohol test as required by employer's written policy; being under the influence of intoxicants while performing services for the employer; possessing a drug unlawfully; testing positive for alcohol or an unlawful drug in connection with employment; or refusing to enter into/violating terms of a last-chance agreement with employer. Not disqualified if participating in a recognized rehabilitation program within 10 days of separation.
PA	For failure to submit and/or pass a drug test conducted pursuant to an employer's established substance abuse policy, provided that the drug test is not requested or implemented in violation of the law or of a collective bargaining agreement.

Disqualification for discharge for misconduct, as for voluntary leaving, is usually based on the circumstances of separation from the most recent employment. However, as indicated in the following table, a few state laws require consideration of the reasons for separation from employment other than the most recent.

Federal law permits cancellation of wage credits for only three reasons: misconduct in connection with the work, fraud in connection with a claim, or receipt of disqualifying income. The severity of the cancellation penalty depends mainly on the presence or absence of additional wage credits during the base period. If the wage credits canceled extend beyond the base period for the current benefit year, the individual may not be monetarily eligible in the subsequent benefit year.

Period of Disqualification—Some states have a variable disqualification for discharge for misconduct. In some states the range is small, for example, the week of occurrence plus 3 to 7 weeks. In others, the range is large, 5 to 26 weeks. Some states provide a fixed disqualification, and others disqualify for the duration of the unemployment, or longer. Some states reduce or cancel all of the worker's benefit rights. Some states provide for disqualification for disciplinary suspensions.

Table 5-6: DISCHARGE FOR MISCONDUCT - DISQUALIFICATION
(Also see Table 5-7)

State	Includes Other Than Last ER	Benefits Postponed For:		Benefits Reduced Or Canceled	Disqualification For Disciplinary Suspension
		Number Of Weeks	Duration Of Unemployment 2/		
AL	X 1/	W + 3-7		Equal	W + 1-3
AK		W + 5 3/		3 x WBA	Same as discharge for misconduct
AZ			5 x WBA		
AR		W + 7			Lesser of duration of suspension or 8 weeks.
CA			5 x WBA		
CO		WF + 10		Equal	
CT			10 x WBA		Same as discharge for misconduct
DE			4 weeks of work and 4 x WBA		
DC	X 1/	WF + 7		8 x WBA	
FL	X 1/	W + 1-52 3/	17 x WBA		Duration
GA			10 x WBA	Equal	Same as discharge for misconduct
HI			5 x WBA		
ID	X 1/		12 x WBA		
IL			Wages equal to WBA in each of 4 weeks		
IN			Wages equal to WBA in each of 8 weeks	25%, only one reduction during benefit year	
IA			10 x WBA		Same as discharge for misconduct
KS			3 x WBA		

Table 5-6: DISCHARGE FOR MISCONDUCT - DISQUALIFICATION (Also see Table 5-7)					
State	Includes Other Than Last ER	Benefits Postponed For:		Benefits Reduced Or Canceled	Disqualification For Disciplinary Suspension
		Number Of Weeks	Duration Of Unemployment 2/		
KY			10 weeks of covered work and wages equal to 10 x WBA		
LA			10 WBA		
ME			4 x WBA		
MD	X 1/	W + 5-10			Same as discharge for misconduct
MA	X 1/		8 weeks of work and wages of 8 x WBA		
MI			17 x WBA		
MN			8 x WBA		Duration
MS			8 x WBA		
MO	X 1/	WF + 4-16 3/			Same as discharge for misconduct
MT			Wages equal to 8 x WBA		
NE	X 1/	W + 7-10		Equal	
NV			Wages equal to WBA in each of 15 weeks		
NH			5 weeks work in each of which earned 20% more than WBA 3/		Duration
NJ		W + 5			
NM			5 x WBA in covered work		
NY			3 days work in each of 5 weeks and 5 x WBA		
NC		3/	10 x WBA in at least 5 weeks	3/	
ND	X 1/		10 x WBA		Duration
OH	X 1/		6 weeks in covered work plus wages equal to 27.5% of state aww in each week.		Duration
OK			10 x WBA		
OR			4 x WBA	8 x WBA	
PA			6 x WBA		Same as discharge for misconduct
PR			4 weeks of work and wages equal to 10 x WBA		Same as discharge for misconduct
RI			20 x minimum hourly wage in each of 8 weeks		
SC		WF + 5-26		Equal	
SD	X 1/		6 weeks in covered work and wages equal to WBA each week		Same as discharge for misconduct
TN	X 1/		10 x WBA		

Table 5-6: DISCHARGE FOR MISCONDUCT - DISQUALIFICATION
(Also see Table 5-7)

State	Includes Other Than Last ER	Benefits Postponed For:		Benefits Reduced Or Canceled	Disqualification For Disciplinary Suspension
		Number Of Weeks	Duration Of Unemployment 2/		
TX			6 weeks of work or wages equal to 6 x WBA		
UT			6 x WBA in covered work		
VT		WF + 6-12			
VA	X 1/		30 days or 240 hours of work		
VI			4 weeks of work and 4 x WBA		Same as discharge for misconduct
WA			10 weeks of work and wages equal to 10 x WBA.		Same as discharge for misconduct
WV	X 1/	W + 6		Equal 4/	
WI			7 weeks elapsed and 14 x WBA	Benefit rights based on any work involved canceled	
WY			12 x WBA		

KEY: W = Week of discharge or week of suspension. WF = Week of filing. "Equal" indicates a reduction equal to the WBA multiplied by the number of weeks of disqualification.

1/ Disqualification pertains only to last separation unless indicated. In AL, the preceding separation may be considered if last employment is not considered bona fide work; in FL, ID, MD, MA, MO, and OH, a previous employer may be considered if the work with the separating employer does not satisfy a potential disqualification. In VA, disqualification is applicable to last employing unit for which claimant has worked 30 days or 240 hours; In DC, SD, and WV, disqualification is applicable to last 30-day employing unit on new claims and to most recent employer on additional claims; any ER with whom the individual earned 8 x WBA, ND, and 10 x WBA, TN. In NE, reduction or forfeiture of benefits applicable to separations from any BP employer.
2/ Minimum employment or wages to requalify for benefits.
3/ In FL, both the term and the duration-of-unemployment disqualifications are imposed. In AK the disqualification is terminated if claimant returns to work and earns 8 x WBA and in MO 6 x WBA. In NH, disqualification is terminated if either condition is satisfied. In NC, the agency may reduce permanent disqualification to a time certain, but not less than 5 weeks. When permanent disqualification changed to time certain, benefits are reduced by an amount equal to the number of weeks of disqualification x WBA. Also, an individual will be disqualified for substantial fault on the part of the claimant that is connected with work but not rising to the level of misconduct. The disqualification will vary from 4-13 weeks depending on the circumstances.
4/ In WV benefit reduction is restored if individual returns to covered employment for at least 30 days within BY.

Disqualification for Gross Misconduct—Some states provide heavier disqualifications for certain types of misconduct. For purposes of this section, all of these heavier disqualifications will be considered "gross misconduct," even if the state's law does not specifically use this term.

In a few states, the disqualification for gross misconduct runs for 1 year; in other states, for the duration of the worker's unemployment; and in most of the states, wage credits are canceled in whole or in part, on either a mandatory or optional basis. The definitions of gross misconduct are in such terms as:

- Discharge for dishonesty or an act constituting a crime or a felony in connection with the worker's work, if such a worker is convicted or signs a statement admitting the act (Florida, Illinois, Indiana, New Hampshire, Nevada, New York, Oregon, Utah and Washington).

- Discharge for a dishonest or criminal act in connection with the work (Alabama).

- Discharge for dishonesty, intoxication including a controlled substance, or willful violation of safety rules (Arkansas).

- A deliberate act or negligence or carelessness of such a degree as to manifest culpability, wrongful intent or evil design (Colorado).
- Assault, bodily injury, property loss or damage amounting to at least $2,000; theft, sabotage, embezzlement or falsification of employer's records (Georgia).
- Conduct evincing extreme, willful or wanton misconduct (Kansas).
- Misconduct that has impaired the rights, property or reputation of a base-period employer (Louisiana).
- Conviction of a felony or misdemeanor in connection with the work (Maine and Utah).
- Deliberate and willful disregard of standards of behavior showing gross indifference to the employer's interests (Maryland).
- Assault, theft, or sabotage (Michigan).
- Any act that would constitute a gross misdemeanor or felony (Minnesota).
- Gross, flagrant, willful or unlawful misconduct (Nebraska).

Only Maryland includes a disciplinary suspension in the definition of gross misconduct.

Table 5-7: STATES WITH GROSS MISCONDUCT PROVISIONS – DISQUALIFICATION (Also See Table 5-6)

State	Includes Other Than Last ER	Benefits Postponed For:			Benefits Reduced Or Canceled
		Fixed Number Of Weeks	Variable Number Of Weeks	Duration Of Unemployment	
AL	X 1/			10 x WBA 1/	Wages earned from ER involved canceled.
AK		52		20 x WBA	
AR				10 weeks of work in each of which WBA is earned	
CO		26			Equal
DC				10 weeks of work and wages equal to 10 x WBA	
FL			Up to 52	17 x WBA	
GA					
IL					All prior wage credits canceled. 3/
IN					All prior wage credits canceled. 3/
IA					All prior wage credits canceled.

Table 5-7: STATES WITH GROSS MISCONDUCT PROVISIONS – DISQUALIFICATION
(Also See Table 5-6)

State	Includes Other Than Last ER	Benefits Postponed For:			Benefits Reduced Or Canceled
		Fixed Number Of Weeks	Variable Number Of Weeks	Duration Of Unemployment	
KS				8 x WBA	All prior wage credits canceled.
LA	X 1/			10 x WBA 1/	Wages earned from employer involved canceled. 1/
ME				Greater of $600 or 8 x WBA	
MD				20 x WBA 5/	
MI	X 1/	26 1/		Earnings at least 1/13 of minimum quarterly amount needed to qualify for benefits	
MN				8 x WBA	Wages earned from employer involved canceled.
MO	X 1/		WF + 4-16 1/4/		Optional 4/
MT		12 months			Equal
NE					All prior wage credits canceled.
NV					Benefit rights based on any work involved canceled. 2/
NH			WF + 4-26 2/		All prior wage credits canceled.
NJ				4 weeks of covered work and wages = to 6 x WBA	Wages earned from employer involved canceled.
NY	X 1/	12 months 1/			
ND		12 months			
OH	X 1/				Benefit rights based on any work involved canceled. 1/
OR					All prior wage credits canceled.
SC			WF + 5-26		Optional equal
UT		W + 51		6 x WBA	All prior wage credits canceled.
VT				6 x WBA	
WA					Greater of all hourly wage credits from employer involved or 680 hours of wage credits, canceled.
WV	X 1/			30 days in covered work	

KEY: W= Week of discharge; WF= Week of filing.

1/ In AL, disqualification applies to other than most recent separation from bona fide work only if ER files timely notice alleging disqualifying act. Disqualification applicable to other than last separation, as indicated: from beginning of BP, LA and MI. In OH if unemployed because of dishonesty or felony in connection with employment, and in MO, within 1 yr. preceding a claim. In NY, no days of unemployment deemed to occur for following 12 months if claimant is convicted or signs statement admitting felonious act in connection with employment. Also, any remuneration paid to the claimant by the affected ER prior to loss of employment due to the criminal act may not be used to establish entitlement to a subsequent, valid claim. In WV, reduction or forfeiture of benefits applicable to either most recent work or last 30-day employing unit.

2/ In NH, if discharged for arson, sabotage, felony, or dishonesty, all prior wage credits are canceled. In NV, if worker is discharged, and admits in writing or under oath, or is convicted, for assault, arson, sabotage, grand larceny, embezzlement, or wanton destruction of property in connection with work, wage credits from that employer are canceled.
3/ If gross misconduct constitutes a felony or misdemeanor and is admitted by the individual or has resulted in conviction in a court of competent jurisdiction, IL and IN.
4/ Option taken by the agency to cancel all or part of wages depends on seriousness of misconduct. The only wage credits canceled are those based on work-connected misconduct, MO.
5/ MD also has provision for aggravated misconduct, which consists of either physical assault or property loss or damage so serious and with malice that the gross misconduct penalty is not sufficient. Disqualification is for duration of unemployment plus earnings of at least 30 x WBA.

LABOR DISPUTES

Unlike many other eligibility provisions, those related to labor disputes do not question whether the unemployment is incurred through fault on the part of the individual worker. Instead, they are more in the nature of an exclusion from coverage. This exclusion rests in part on an effort to maintain a neutral position in regard to the dispute. The principle of "neutrality" is reflected in the type of denial imposed in all of the state laws. The denial is always a postponement of benefits; there is no reduction or cancellation of benefit rights. In almost all states, the denial period is indefinite and geared to the continuation of the dispute-induced stoppage or to the progress of the dispute.

Definition of Labor Dispute—State laws use different terms to describe labor disputes. In addition to labor dispute, these terms include trade dispute, strike, "strike and lockout," or "strike or other bona fide labor dispute." Except for Alabama, Arizona, Colorado, and Minnesota, state laws do not define these terms. Some states exclude the following from their denials:

- Employer lockouts, presumably to avoid penalizing workers for the employer's action.
- Disputes resulting from the employer's failure to conform to the provisions of a labor contract.
- Disputes caused by the employer's failure to conform to any state or federal law relating to wages, hours, working conditions, or collective bargaining.
- Disputes where the employees are protesting substandard working conditions.

Location of the Dispute—Usually a worker is not denied unless the labor dispute is in the establishment in which the worker was last employed. Exceptions to this are found in the following states:

- Idaho (omits this provision).
- North Carolina, Oregon, Texas and Virginia – deny workers at any other premises that the employer operates if the dispute makes it impossible for the employer to conduct work normally at such premises.
- Michigan – deny at any establishment within the United States functionally integrated with the striking establishment or owned by the same employing unit.
- Ohio – deny at any factory, establishment, or other premises located in the United States and owned or operated by the employer.

Period of Denial—In most states the denial period ends when the "stoppage of work because of a labor dispute" ends or the stoppage ceases to be caused by the labor dispute. In other states, the denial period lasts while the labor dispute is in "active progress." In others, the denial period lasts while the workers' unemployment is a result of a labor dispute.

A few state laws allow workers to terminate the denial period by showing that the labor dispute (or the stoppage of work) is no longer the cause of their unemployment:

- In Indiana, the denial ends following termination of employment with the employer involved in the dispute.

- In Michigan, the denial ends if a worker works in at least 2 consecutive calendar weeks, and earns wages in each week of at least the weekly benefit amount based on employment with the employer involved in the labor dispute.

- In Missouri, the denial ends following the bona fide employment of the worker for at least the major part of each of 2 weeks.

- In New Hampshire, the denial ends 2 weeks after the dispute is ended even if the stoppage of work continues.

- In Maine, Massachusetts, New Hampshire, and Utah, a worker may receive benefits if, during a stoppage of work resulting from a labor dispute, the worker obtains employment with another employer and earns a specified amount of wages. However, wages earned with the employer involved in the dispute cannot be used while the stoppage of work continues.

- In contrast, some states laws extend the denial for the period of time necessary for the employer to resume normal operations (Arkansas, Colorado, North Carolina, and Tennessee). Others extend the denial period to shutdown and start up operations (Michigan and Virginia).

- In New York, a worker is denied for 7 consecutive weeks due to unemployment because of a strike, lockout or concerted activity not authorized or sanctioned by the collective bargaining unit in the establishment where such individual was employed.

Exclusion of Individual Workers—Most states provide that individual workers are not denied under the labor dispute provisions if they and others of the same grade or class are not participating in the dispute, financing it, or directly interested in it.

Table 5-8: PERIOD OF DENIAL AND WORKERS EXCLUDED									
	Duration Of Denial			Disputes Excluded If Caused By:			Workers Not Denied If Neither They Nor Any Of The Same Grade Or Class Are:		
				Employer's Failure To Conform To:		Lockout			
State	During Stoppage Of Work	While Dispute Is In Active Progress	Other	Contract	Labor Law		Participa-ting In Dispute	Financing Dispute	Directly Interested In Dispute
AL		X							
AK	X			X	X		X		X
AZ			X 1/	X	X		X	X	X
AR			X 2/			X	X		X
CA		X				X 3/			
CO			X 2/			X 8/	X	X	X
CT			X 1/2/			X	X	X	X
DE	X					X			
DC		X				X	X		X
FL						X	X	X	X
GA	X 9/					X	X	X	X
HI	X						X		X
ID			X 1/				X	X 4/	X
IL	X					X 8/	X	X	X
IN			X 2/5/				X	X	X
IA	X						X	X	X
KS	X						X 5/	X	X 5/
KY		X				X			
LA		X				X	X 4/		X 4/
ME	X			X	X	X	X	X	X
MD	X					X	X	X	X
MA	X 9/					X	X	X	X
MI			X 2/			X 6/	X 4/	X 4/	X 4/
MN		X 2/		X	X	X	X 10/		X 10/
MS	X					X	X		X
MO	X 2/						X	X	X

Table 5-8: PERIOD OF DENIAL AND WORKERS EXCLUDED									
	Duration Of Denial			Disputes Excluded If Caused By:			Workers Not Denied If Neither They Nor Any Of The Same Grade Or Class Are:		
				Employer's Failure To Conform To:		Lockout			
State	During Stoppage Of Work	While Dispute Is In Active Progress	Other	Contract	Labor Law		Participa-ting In Dispute	Financing Dispute	Directly Interested In Dispute
MT			X 1/		X		X	X	X
NE	X						X	X	X
NV		X					X	X	X
NH	X 2/			X	X		X	X	X
NJ	X						X	X	X
NM			X 1/				X		X
NY			X						
NC			X 2/						
ND			X 1/				X		X
OH			X 1/10/			X			
OK	X					X	X		X
OR		X 8/		X		X	X	X	X
PA	X					X	X		X
PR	X						X		X
RI			X 1/			X	X 4/	X 4/	X 4/
SC		X					X	X 4/	X
SD			X 1/			X	X	X	X
TN		X 8/				X	X		
TX	X 5/					X 3/	X 5/	X 5/	X 5/
UT	X 8/				X	X 3/			X 2/
VT	X					X 8/	X 4/	X 4/	X 4/
VA			X 2/				X	X	X
VI		X				X	X		X
WA			X 1/				X	X	X
WV	X 9/			X 6/		X	X	X	X
WI		X				X			

Table 5-8: PERIOD OF DENIAL AND WORKERS EXCLUDED

State	Duration Of Denial			Disputes Excluded If Caused By:			Workers Not Denied If Neither They Nor Any Of The Same Grade Or Class Are:		
				Employer's Failure To Conform To:		Lockout			
	During Stoppage Of Work	While Dispute Is In Active Progress	Other	Contract	Labor Law		Participa-ting In Dispute	Financing Dispute	Directly Interested In Dispute
WY	X						X	X	X

1/ As long as unemployment is caused by the existence of a labor dispute.
2/ See text preceding table for details.
3/ By judicial construction of statutory language.
4/ Applies only to individual, not to others of the same grade or class.
5/ As long as unemployment is caused by claimant's stoppage of work which exists because of labor dispute. Failure or refusal to cross picket line or to accept and perform available and customary work in the establishment constitutes participation and interest.
6/ Denial is not applicable if employees are required to accept wages, hours, or other conditions substantially less favorable than those prevailing in the locality or are denied the right of collective bargaining.
7/ Disqualification is not applicable to any claimant who failed to apply for or accept a recall to work with an ER during a labor dispute work stoppage if claimant's last separation from ER occurred prior to work stoppage and was permanent.
8/ Dispute is not disqualifying: in CO, unless the lockout results from demands of employees, as distinguished from an ER effort to deprive the employees of some advantage they already possess; in OH, if the individual was laid off and not recalled prior to the dispute, if separated prior to the dispute; if obtained bona fide job with another ER while the dispute was in progress; in IL, if the ER refused to meet under reasonable conditions with the union to discuss the lockout, if the ER during the lockout refused to bargain in good faith with the union over the lockout issues and there is a final adjudication under the NLRA, or if the lockout violated the existing union agreement; in OR, if the individual was laid off prior to the dispute and did not work more than 7 days during the 21 calendar days immediately prior to the dispute, or if his/her position was filled and the individual unilaterally abandons the dispute to seek reemployment with the ER; in TN, if the claimant was indefinitely separated prior to the dispute and otherwise eligible; in UT, if the ER was involved in fomenting the strike; in VT, if the ER brought about the lockout in order to gain concessions from the employees.
9/ Disqualification ceases: in GA, when operations have been resumed but individual has not been reemployed; in MA, within 1 week following termination of dispute if individual is not recalled to work. In WV, if the stoppage of work continues longer than 4 weeks after the termination of the labor dispute, there is a rebuttable presumption that the stoppage is not due to the labor dispute and the burden is on the ER to show otherwise.
10/ Disqualification limited to 1 week for individuals not participating in nor directly interested in dispute.

NONSEPARATIONS

ABILITY TO WORK—Only minor variations exist in state laws setting forth the requirements concerning ability to work. A few states specify that a worker must be physically able or mentally and physically able to work. Evidence of ability to work is the filing of claims and registration for work at a public employment office, required under most state laws. Missouri goes one step further requiring, by law, every individual receiving benefits to report to the nearest office in person at least once every 4 weeks.

Several states have added a proviso that no worker who has filed a claim and has registered for work shall be considered ineligible during an uninterrupted period of unemployment because of illness or disability, so long as no work, which is suitable but for the disability, is offered and refused. These provisions are not to be confused with the special programs in six states for temporary disability benefits.

AVAILABILITY FOR WORK—Availability for work is often translated to mean being ready, willing, and able to work. Meeting the requirement of registration for work at a public employment office is considered as some evidence of availability. Nonavailability may be evidence by substantial restrictions upon the kind or conditions of otherwise suitable work that a worker can or will accept, or by his refusal of a referral to suitable work made by the employment service or of an offer of suitable work made by an employer. A determination that a worker is unable to work or is unavailable for work applies to the time at which notice is given of

unemployment or for the period for which benefits are being claimed.

The availability-for-work provisions are more varied than the ability-to-work provisions. Some states provide that a worker must be available for work; some for suitable work; and others for work in the worker's usual occupation or for which the worker is reasonably fitted by training and experience.

The following table indicates claimants who are not ineligible due to illness or disability (occurring after the claim is filed and after registering for work) as long as no refusal of suitable work occurs after the beginning of the illness or disability.

Table 5-9: STATES WITH SPECIAL PROVISION FOR ILLNESS OR DISABILITY

Alaska 1/	Delaware	Hawaii	Idaho 2/
Maryland	Massachusetts 3/	Montana	Nevada
North Dakota 4/	Tennessee	Vermont	

1/ Waiver may not exceed 6 consecutive weeks.
2/ Only if no suitable work was available that would have paid wages greater than one-half of the individual's WBA.
3/ Provision is applicable for 3 weeks only in a BY.
4/ Only if illness not covered by workers' compensation.

Vacations—Georgia and West Virginia specify the conditions under which workers on vacations are deemed unavailable or unemployed, and Georgia limits to 2 weeks in any calendar year the period of unavailability of workers who are not paid while on a vacation provided in an employment contract or by employer-established custom or policy. Mississippi considers a worker unavailable for work during a holiday or vacation period. North Carolina considers as unavailable a worker whose unemployment is found to be caused by a vacation for a period of 2 weeks or less in a calendar year.

In Nebraska and New Jersey, no worker is deemed unavailable for work solely because they are on vacation without pay if the vacation is not the result of the workers own action as distinguished from any collective bargaining or other action beyond the individual's control. Under New York law, an agreement by a worker or the individual's union or representative to a shutdown for vacation purposes is not of itself considered a withdrawal from the labor market or unavailability during the time of such vacation shutdown. Other provisions relating to eligibility during vacation periods - although not specifically stated in terms of availability - are made in Virginia, where a worker is eligible for benefits only if a bona fide vacation is found not to be; and in Washington, where it is specifically provided that a cessation of operations by an employer for the purpose of granting vacations shall not be construed to be a voluntary quit or voluntary unemployment. Tennessee does not deny benefits during unemployment caused by a plant shutdown for vacation, providing the individual does not receive vacation pay. However, workers who receive regular wages for a vacation under terms of a labor-management agreement will have their weekly benefit amount reduced by the amount of the wages received, but only if work will be available for the workers with the employer at the end of the vacation period.

Nebraska provides that a worker is considered employed when wages are received for a specific time in which the vacation is actually taken during a time of temporary layoff or plant shutdown and that vacation pay be prorated in an amount reasonably attributable to each week claimed and considered payable with respect to that week.

Locality—Alabama, Michigan, Ohio, and South Carolina require that workers be available for work in a locality where their base-period wages were earned, or in a locality where similar work is available or where suitable work is normally performed. Illinois considers workers to be unavailable if, after separation from their most recent work, they move to and remain in a locality where opportunities for work are substantially less

favorable than those in the locality they left. Arizona requires that, at the time they file a claim, workers be a resident of Arizona or of another state or foreign country that has entered into reciprocal arrangements with the state. Oregon and Virginia consider workers unavailable for work if they leave their normal labor market area for the major portion of a week unless the worker can establish that they conducted a bona fide search for work in the labor market area where they spent the major part of the week.

Availability During Training—The FUTA requires, as a condition for employers in a state to receive credit against the federal tax, that all state laws provide that compensation shall not be denied to an otherwise eligible worker for any week during which s/he is attending a training course with the approval of the state agency. Also, all state laws must provide that trade allowances not be denied to an otherwise eligible individual for any week during which he is in training approved under the Trade Act of 1974, because of leaving unsuitable employment to enter such training. In addition, the state law must provide that workers in training not be held ineligible or disqualified for being unavailable for work, for failing to make an active search for work, or for failing to accept an offer of, or for refusal of, suitable work.

Federal law does not specify the criteria that states must use in approving training. Although some state laws have set forth the standards to be used, many do not specify the types of training that are approvable. Generally, approved training is limited to vocational or basic education training, thereby excluding regularly enrolled students from collecting benefits under the approved training provision.

Some states, in addition to providing regular benefits while the worker attends an industrial retraining or other vocational training course, while the worker remains in training. See Chapter 4 concerning special extensions.

While in almost all states the participation of workers in approved training courses is voluntary, in the District of Columbia, Idaho, Missouri, and Washington, a worker may be required to accept such training. The department in Indiana is directed to provide job counseling or training to a worker who remains unemployed for at least 4 weeks. Also in Indiana, the board determines manner and duration.

Availability for Part-Time Work—Many states require workers to be available for full-time work. Other states allow workers to be available for part-time work under certain conditions. The following table indicates those states paying workers who seek only part-time employment:

Table 5-10: STATES WITH AVAILABILITY OF PART-TIME WORKERS PROVISIONS

States That Pay Benefits To Part-Time Workers Under Certain Conditions

State	Basis of Provision *	Specifics	State	Basis of Provision *	Specifics
AR	L	Worker is otherwise qualified and doesn't refuse work because he/she is unavailable during hours offered by employer.	NV	I	Only if medical restrictions limiting work hours are imposed by physician or high school students who can only work part-time while attending school.
CA	L	If claim based on part-time employment; actively seeking and willing to accept work under essentially same conditions as existed while wage credits earned; no other restrictions and labor market has reasonable demand for part-time services offered.	NH	L	Only if workers have permanent disabilities, full-time work for them will be deemed to be the hours and shifts they are able to work as certified by a licensed physician provided there is a market for the services the workers offer during such hours and shifts.

Table 5-10: STATES WITH AVAILABILITY OF PART-TIME WORKERS PROVISIONS States That Pay Benefits To Part-Time Workers Under Certain Conditions					
CO	L, R	If worker earned at least 60% of wage credits during base period in part-time work, may seek part-time work. Must be able & available.	NJ	L, R	Provided a substantial portion of base period wages in part-time work; good cause for limited availability; sufficient part-time work in labor market; and available for enough weekly hours to earn their WBA. Good cause includes childcare, eldercare, ill health, need to care for ill or disabled family member, and school attendance.
DE	I	If good cause for seeking part-time employment; labor market for services performed; willing and able to accept suitable work.	NM	R	Only for workers that attend school full-time, are always available for and seeking at least part-time work, and school attendance was not a factor in separation from work.
DC	I	DC law requires claimants to be available for work but does not specify full-time work. Must have good cause for seeking part-time work.	NY	L	Provided there is a history of part-time work.
FL	I	Only if worker's employment in base period was wholly performed in part-time work.	NC	L	If monetary eligibility based primarily on part-time work; actively seeking and willing to accept work under essentially same conditions; no other limitations; and reasonable demand for part-time work in labor market.
HI	I	If history of part-time work.	ND	I	Worker must be available for the type of work (full-time or part-time) in which they were previously employed.
IL	R	Only if part-time work is suitable because of circumstances beyond worker's control; suitable work is only available on a part-time basis; part-time work available in labor market; and worker has reasonable possibility of security part-time work.	OK	I	If history of part-time work.
IA	L	If history of part-time work; separated from employment for non-disqualifying reason; and reasonable expectation of securing employment during same hours/for same number of hours.	OR	R	Only if worker has permanent or long-term impairment and remains available for some work.
KS	I	If worker's claim is based upon part-time employment and he/she is available for work under same conditions.	PA	L, I	Term "available" not defined by law, but PA Superior Court stated that, as long as a claimant is ready, willing and able to accept some substantial and suitable work, this part of the statutory requirements is met.
LA	I	If there is a history of part-time work .	PR	I	If there is a history of part-time work.

Table 5-10: STATES WITH AVAILABILITY OF PART-TIME WORKERS PROVISIONS States That Pay Benefits To Part-Time Workers Under Certain Conditions					
ME	R	If majority of base period work was part-time, worker can limit work search to comparable part-time work. Workers whose base period work was full-time can limit work search to part-time if separation from employment was due to requirement to reduce employment to part-time due to illness or disability of self/immediate family member or for safety/protection of immediate family member. Workers unable to work full-time due to a covered disability under the Americans with Disabilities Act.	SD	I	Part-time workers are eligible.
MA	R	If worker has part-time employment in base period for good cause, continues to have good cause for part-time work, is available for at least as many hours per week, or has a disability limiting him/her to part-time work.	UT	R	Only for permanently disabled workers who are unable to work full-time; have worked part-time due to the disability during a substantial part of their base period; and are seeking part-time work consistent with their limitations which is available in the local labor market.
MN	L	Only if majority of base period wages earned in part-time employment.	VT	I	If eligibility is based on part-time work and claimant remains available for part-time work.
MT	L	Only if certified medical condition; majority of base period wages in part-time work; substantial amount of suitable part-time work in labor market; and can work enough hours at prevailing wage to earn at least the weekly benefit amount.	WI	L, R	Part-time workers with uncontrollable restrictions on availability are eligible if available for at least 15% of the suitable jobs in their labor market.
NE	I	If eligibility is based on part-time employment, worker can limit work search to comparable part-time work.	WY	R	Eligible if the majority of base period wages were earned on the basis of part-time work or the workers have bona fide medical reasons preventing them from working full-time.
* Indicates if the state applies its law (L), regulation (R), or an interpretation (I).					

Michigan, New Hampshire and West Virginia require that a worker be available for full-time work. Pennsylvania considers a worker ineligible for benefits for any week in which his unemployment is due to failure to accept an offer of suitable full-time work in order to pursue seasonal or part-time work.

Note: Since most state laws do not specify whether the worker must be available for full-time or part-time work, the above table should be used with caution. The table is based on information provided to the Department.

ACTIVELY SEEKING WORK—In addition to registration for work at a local employment office, all states, whether by law or practice (except Pennsylvania), require that a worker be actively seeking work or making a reasonable effort to obtain work. Pennsylvania requires that the claimant be able and available for suitable work and not refuse suitable work when offered. Those states which apply actively seeking work through practice are Alaska, Arizona, Mississippi, Nebraska, Nevada, New York, Puerto Rico, South Dakota,

Tennessee, and Texas. In Ohio, the work search requirement can be waived if the individual's unemployment is due to a major disaster (declared by the President) and the employer whose operations were adversely affected by the disaster requests a waiver.

REFUSAL OF WORK—All state laws address refusals of work, although they vary concerning the extent of the disqualification imposed. The FUTA provides that all state laws must also look at the labor market and certain labor standards. Specifically, benefits will not be denied to any otherwise eligible individual for refusing to accept new work if:

- The position offered is vacant due directly to a strike, lockout, or other labor dispute;
- The wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or
- If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Criteria for Suitable Work—All states look at whether the work refused was suitable. When state laws list the criteria for suitability, they usually address the degree of risk to a worker's health, safety, and morals; the physical fitness and prior training, experience and earnings; the length of unemployment and prospects for securing local work in a customary occupation; and the distance of the available work from the worker's residence. Delaware and New York make no reference to the suitability of work offered but provide for disqualification for refusals of work for which a worker is reasonably fitted. South Carolina specifies that whether work is suitable must be based on a standard of reasonableness as it relates to the particular worker involved.

These criteria are modified in some states to include other stipulations:

Distance—In Alabama and West Virginia, no work is unsuitable because of distance if it is in substantially the same locality as the last regular employment which the worker left voluntarily without good cause connected with the employment; in Indiana, work under substantially the same terms and conditions under which the worker was employed by a base-period employer, which is within the prior training and experience and physical capacity to perform, is suitable work unless a bona fide change in residence makes such work unsuitable because of the distance involved. Delaware, New York and Ohio provide that no refusal to accept employment shall be disqualifying if it is at an unreasonable distance from the worker's residence or the expense of travel to and from work is substantially greater than that in the former employment, unless provision is made for such expense.

Personal/Family Reasons—Maine does not disqualify a worker for refusal of suitable work if he refuses a position on a shift, the greater part of which falls between midnight and 5 a.m., and he is prevented from accepting the job because of family obligations. Maine excludes from suitable work a job the worker previously vacated if the reasons for leaving have not been removed or changed; in addition, if a claimant has refused work for a necessitous and compelling reason, the disqualification will be terminated when the claimant is again able and available for work. Massachusetts deems work between the hours of 12 midnight and 6 a.m. not suitable for women. New Hampshire does not disqualify a worker for being unable for or unable to accept work during the hours of the third shift if the worker is the only adult available to care for children under age 15 during said hours or for the care of an ill or infirm elderly person who is dependent upon the worker's support. Wisconsin does not disqualify a worker who accepts work, which could have been refused with good cause, and then terminates with good cause within 10 weeks after starting the job. North Carolina does not deny benefits to a worker for refusing a job resulting from undue family hardship when the individual cannot accept a particular job because the individual is unable to obtain adequate childcare or elder care.

Connecticut does not deem work suitable if as a condition of being employed, the worker would be required to agree not to leave the position if recalled by his previous employer. In Louisiana a worker may refuse work if the remuneration from the employer is below 60 percent of the individual's highest rate of pay in the base period. In Wisconsin a worker has a good cause during the first six weeks of unemployment for refusing work at a lower grade of skill or significantly lower rate of pay than one or more recent jobs.

Union/Collective Bargaining Issues—Ohio and New York do not consider suitable any work a worker is not required to accept pursuant to a labor-management agreement. In Illinois a worker will not be disqualified if the position offered by an employing unit is a transfer to other work and the acceptance would separate a worker currently performing the work. Iowa does not disqualify a worker for failure to apply for or accept suitable work if the individual left work in lieu of exercising a right to bump or oust an employee with less seniority. In Oregon a worker will not be disqualified for refusal of suitable work if the employer unilaterally modified the amount of wages agreed upon by the individual's collective bargaining unit and the employer. In Pennsylvania a worker will not be disqualified for refusal of suitable work when the work is offered by his employer, and the worker is not required to accept the offer pursuant to terms of a union contract or agreement or an established employer plan, program or policy. In New York a worker not subject to recall or who did not obtain employment through a union hall and is still unemployed after receiving 13 weeks of benefits is required to accept employment that the worker is capable of doing, provided the employment would result in a quarterly wage not less than 80 percent of the high quarter in the base period or the wages prevailing for similar work in the locality, whichever is less.

Duration of Unemployment—A few states provide for changing the definition of suitable work as the duration of the individual's unemployment grows. The suitability of the offered wage is the factor states have chosen to alter. For example, Florida requires the agency, in developing rules to determine the suitability of work, to consider the duration of the individual's unemployment and the wage rates available. In addition, Florida law specifies that, after a worker has received 25 weeks of benefits in a single year, suitable work will be a job that pays the minimum wage and is 120 percent or more of the individual's weekly benefit amount.

Idaho law merely requires workers to be willing to expand their job search beyond their normal trade or occupation and to accept work at a lower rate of pay in order to remain eligible for benefits as the length of their unemployment grows. Louisiana will not disqualify a worker for refusing suitable work if the offered work pays less than 60 percent of the individual's highest rate of pay in the base period. Utah considers all earnings in the base year, not just earnings from the most recent employer, in the determination of suitable work and specifies that the agency will be more prone to consider work suitable the longer the worker is unemployed and less likely that the worker will secure local work in his or her customary occupation. Wyoming will apply the refusal-of-suitable work disqualification if, after 4 weeks of unemployment, the individual failed to apply for and accept suitable work other than his customary occupation offering at least 50 percent of the compensation earned in his or her previous occupation.

Georgia specifies that, after a worker has received 10 weeks of benefits, no work will be considered unsuitable if it pays wages equal to at least 66 percent of the individual's highest quarter earnings in the base period and is at least equal to the federal or state minimum wage.

Iowa law specifies that work is suitable if it meets the other criteria in the law and the gross weekly wage of the offered work bears the following relationship to the individual's high-quarter average weekly wage: (1) 100 percent during the first 5 weeks of unemployment; (2) 75 percent from the 6th through the 12th week of unemployment; (3) 70 percent from the 13th through the 18th week of unemployment; and (4) 65 percent after the 18th week of unemployment. No individual, however, is required to accept a job paying below the federal minimum wage.

After 12 weeks of unemployment, Maine no longer considers the individual's prior wage in determining whether work is suitable. In Michigan, an individual will be denied benefits for refusing an offer of suitable work paying at least 70% of the gross pay rate received immediately before becoming unemployed. After 8 weeks of unemployment, Mississippi law specifies that work is suitable if the offered employment pays the minimum wage or higher and the wage is that prevailing for the individual's customary occupation or similar work in the locality. Montana, after 13 weeks of unemployment, specifies that a suitable work offer need only include wages equal to 75 percent of the individual's earnings in his previous customary insured work, but not less than the federal minimum wage. North Dakota law specifies that after a worker has received 18 weeks of benefits, suitable work will be any work that pays wages equal to the maximum weekly benefit amount, providing that consideration is given to the degree of risk involved to the individual's health, safety, morals, his physical fitness and the distance of the work from his residence.

Period of Disqualification—Some states disqualify for a specified number of weeks (3 to 20) any workers who refuse suitable work; others postpone benefits for a variable number of weeks, with the maximum ranging from 1 to 12.

More than half the states disqualify, for the duration of the unemployment or longer, workers who refuse suitable work. Most of these specify an amount that the worker must earn, or a period of time the worker must work to remove the disqualification.

The relationship between availability for work and refusal of suitable work was pointed out in the discussion of availability. The state of Wisconsin's provisions for suitable work recognize this relationship by stating: "If the commission determines that . . . a failure to accept suitable work has occurred with good cause, but that the employee is unable to work or unavailable for work, he shall be ineligible for the week in which such failure occurred and while such inability or unavailability continues."

Of the states that reduce potential benefits for refusal of suitable work, the majority provide for reduction by an amount equal to the number of weeks of benefits postponed.

Table 5-11: REFUSAL OF SUITABLE WORK – DISQUALIFICATION

State	Benefits Postponed For –		Benefits Reduced
	Number Of Weeks	Duration Of Unemployment 1/	
AL	W + 1-10		
AK	W + 5		3 x WBA
AZ		8 x WBA	
AR	W + 7 2/		
CA	W + 1-9 2/		
CO	W +20		Equal
CT		6 x WBA	
DE		4 weeks of work and 4 x WBA	
DC		10 weeks of work and wages = to 10 x WBA	
FL	W + 1-5 3/	17 x WBA 3/	Optional
GA		8 x WBA	

Table 5-11: REFUSAL OF SUITABLE WORK – DISQUALIFICATION			
State	Benefits Postponed For –		Benefits Reduced
	Number Of Weeks	Duration Of Unemployment 1/	
HI		5 x WBA	
ID		12 x WBA	
IL		Wages equal to WBA in each of 4 weeks	
IN		Wages equal to WBA in each of 8 weeks	By 25%
IA		10 x WBA	
KS		3 x WBA	
KY		10 weeks of covered work plus 10 x WBA	
LA		10 x WBA	
ME		8 x WBA	
MD	W + 5-10 3/	10 x WBA	
MA	W + 7		Up to 8 weeks
MI	W + 13		Equal in current or succeeding BY 3/
MN		8 x WBA	
MS	W + 1-12		
MO		10 x WBA	
MT		6 x WBA	Equal
NE	W + 7-10		Equal
NV		Wages equal to WBA in each week up to 15	
NH		5 weeks of covered work with earnings equal to 20% more than WBA in each	
NJ	W + 3		
NM		5 x WBA	Equal
NY		5 x WBA	
NC	4/	10 x WBA earned in at least 5 weeks	4/
ND		10 x WBA	
OH		6 weeks in covered work 5/	
OK		10 x WBA 6/	
OR		4 x WBA	8 x WBA
PA		7/	

Table 5-11: REFUSAL OF SUITABLE WORK – DISQUALIFICATION			
State	Benefits Postponed For –		Benefits Reduced
	Number Of Weeks	Duration Of Unemployment 1/	
PR		4 weeks of work and wages equal to 10 x WBA	
RI		20 x minimum hourly wage in each of 8 weeks	
SC		8 x WBA	
SD		6 weeks of covered work and wages equal to WBA in each week	
TN		10 x WBA in covered work	
TX		6 weeks of work or wages equal to 6 x WBA (applies to any refusal within BY)	
UT		6 x WBA	
VT		6 x WBA	
VA		30 days or 240 hours of work.	
VI		4 weeks of work and 4 x WBA	
WA		7 weeks of work and earnings equal to WBA in each of 7 weeks.	
WV	W + 4 8/		Equal
WI		4 weeks elapsed and 4 x WBA	
WY		8 x WBA	

KEY: W = Week of refusal. "Equal" indicates reduction equal to WBA multiplied by number of weeks of disqualification.

1/ Minimum employment or wages required to requalify for benefits.
2/ In AR, weeks of disqualification must be weeks in which claimant is otherwise eligible or earns wages equal to WBA; in CA, it must be weeks in which claimant meets reporting and registration requirements. Also, agency may add 1-8 weeks for successive disqualification.
3/ In FL, both term and duration of unemployment disqualifications are imposed. Aliens who refuse resettlement or relocation employment are disqualified 1-17 weeks, or reduction by not more than 5 weeks. In MI, claimant may be eligible for benefits based on wage credits earned subsequent to refusal. In MD, either disqualification may be imposed at discretion of agency.
4/ In NC, disqualification may run into next BY which begins within 12 months after end of current year. Also, a permanent disqualification may be reduced to a time certain disqualification, but not less than 5 weeks, with a corresponding reduction in benefits (weeks of disqualification x WBA).
5/ And wages at 27.5% of state AWW in each week, OH.
6/ An individual who refuses an offer of work due to illness, death of a family member or other circumstances beyond the individual's control will be disqualified for the week of occurrence, OK.
7/ Until a worker obtains work not of a casual or temporary nature; however, if work refused was casual or temporary, then disqualification is for an equal period of time, PA.
8/ Plus such additional weeks as offer remains open, WV.

SPECIAL GROUPS

All state laws contain provisions addressing special groups of workers. The FUTA requires the denial of benefits under certain circumstances to professional athletes, some aliens and school personnel while it also prohibits states from denying benefits solely on the basis of pregnancy or the termination of pregnancy. Like the FUTA provisions, most of these special provisions restrict benefits more than the usual disqualification

provisions.

STUDENTS—Most states exclude from coverage service performed by students for educational institutions. In addition, many states have special provisions limiting the benefit rights of students who have had covered employment. In some of these states, the disqualification is for the duration of the unemployment; in others, during attendance at school or during the school term.

Many states disqualify workers during school attendance and some states extend the disqualification to vacation periods.

Table 5-12: TREATMENT OF STUDENTS

State	Disqualified For Leaving Work To Attend School	Disqualified Or Ineligible While Attending School	State	Disqualified For Leaving Work To Attend School	Disqualified Or Ineligible While Attending School
AL	Yes	Yes, ineligible if school hours overlap normal work hours.	NE	Yes	Yes, disqualified unless major part of BPW were for services performed while attending school. 1/
AK	No	Yes, unless student pursued an academic education for a school term and worked 30 hours a week, and the academic schedule did not preclude full time work in the student 's occupation, and if the student was laid off. 1/	NV	Yes, unless approved training or high school student who must legally attend school.	No, if school attendance does not interfere with ability to seek and accept suitable work.
AZ	INA	INA	NH	Yes	No, provided student is available for and seeking permanent full-time work during all the shifts and all the hours there is a market for his services.
AR	Yes	Yes, except while attending a vocational school for a demand occupation and other training as long as they are making reasonable efforts to obtain employment and don't refuse suitable work.	NJ	Yes, except for approved training.	Yes, disqualified, including vacation periods, unless student earned wages sufficient to qualify for benefits while attending school. 1/
CA	Yes, except if attending union apprenticeship school or approved for training benefits.	Yes, ineligible unless student has a part-time seek work plan or worked part-time during school and is available for part-time work during school. 1/	NM	Yes	Yes, ineligible except if school attendance was not a factor in their job separation and as long as the student is available and seeking at least part-time work (even if currently working part-time). 1/
CO	Yes 1/	No, provided school attendance does not interfere with ability to accept suitable work. 1/	NY	No	Yes, disqualified. Personal and non-compelling.
CT	Yes 1/	Yes, ineligible except student who becomes unemployed while attending school if work search is restricted to employment that does not conflict with regular class hours and if student was employed on a full-time basis during the 2 years prior to separation while in school. 1/	NC	No	Yes, ineligible-- including vacation periods-- unless full-time work was concurrent with school attendance. 1/
DE	Yes	No, if student determined to be primarily a worker who happens to attend school.	ND	No	Yes, disqualified unless major part of BPW were for services performed while attending school. 1/

Table 5-12: TREATMENT OF STUDENTS					
State	**Disqualified For Leaving Work To Attend School**	**Disqualified Or Ineligible While Attending School**	**State**	**Disqualified For Leaving Work To Attend School**	**Disqualified Or Ineligible While Attending School**
DC	Yes	No, provided school is not an undue restriction on availability.	OH	No	No, if becomes unemployed while attending school; BPW were at least partially earned while attending school; meets availability and work search requirements; and if available for suitable employment on any shift. 1/
FL	Yes	No, provided school attendance does not interfere with availability to accept suitable work.	OK	No	No, provided student offers to quit school, adjust class hours, or change shifts to secure employment. 1/
GA	Yes unless Trade Act training.	Yes, unless attending approved courses.	OR	Yes, unless required by law to attend school. 2/	No, provided school attendance does not interfere with availability to seek and accept suitable work.
HI	INA	INA	PA	Yes, unless Trade Act training and job paid less than 80% of Trade Act job and was at lesser skill level.	No, provided able and available for suitable work. (Does not have to be full-time work.)
ID	Yes	Yes, ineligible. 1/	PR	INA	INA
IL	Yes, unless Trade Act training.	Yes, ineligible when principal occupation is a student unless attends approved training. 1/	RI	Yes, unless Trade Act training.	Yes, disqualified unless hours of school do not interfere with hours of work in student's occupation.
IN	Yes	No, provided school attendance does not interfere with availability to accept work, are able, and actively seeking work.	SC	Yes	No, not disqualified if student offers to quit school, adjust class hours or change shifts in order to secure employment. Must make a work search each week.
IA	Yes	No, eligible if school attendance does not interfere with ability to accept suitable work.	SD	Yes	Yes, ineligible if determined principally occupied as a student.
KS	Yes, unless Trade Act training.	Yes, disqualified, including vacation periods, unless full-time work is concurrent with school attendance, or school schedule does not affect availability for work. 1/	TN	No	INA
KY	Yes	No, provided school attendance does not interfere with ability to accept suitable work.	TX	Yes 1/	Yes, eligible if willing to quit school or change class schedule to accommodate full-time work. 1/
LA	No	Yes, ineligible, including vacation periods, unless student loses job while in school and is available for suitable work. 1/	UT	Yes 2/	No, disqualified when school attendance is a restriction to availability for full-time suitable work. 2/
ME	Yes	Yes, disqualified unless student is available for full-time work while in school, or would leave school for full-time work, or is in approved training.	VT	Yes	Yes, if claim is based on part-time employment and student remains available for part-time work while attending school.
MD	Yes 1/	INA	VA	INA	INA
MA	Yes	No, provided industrial or vocational training is found to be necessary to obtain suitable work. Training must be full-time and less than one year in length. 2/	VI	No	No

Table 5-12: TREATMENT OF STUDENTS					
State	**Disqualified For Leaving Work To Attend School**	**Disqualified Or Ineligible While Attending School**	**State**	**Disqualified For Leaving Work To Attend School**	**Disqualified Or Ineligible While Attending School**
MI	Yes 1/	Yes, ineligible unless student agrees to quit school/change class schedule to accept work; or in approved training.	WA	INA	Yes, disqualified if registered at a school that provides instruction of 12 or more hours per week, unless in approved training or demonstrates evidence of availability for work. 1/
MN	Yes, unless entering approved training.	Yes, ineligible unless willing to quit school, except for approved training. 1/	WV	Yes, unless previously enrolled in approved training. 1/	No, provided student is in approved vocational training or if student is willing to drop or rearrange classes if suitable work were offered.
MS	Yes	No, provided school hours do not interfere with availability for full-time work.	WI	Yes, unless Trade Act training.	Yes, unless student is available for full-time first shift work.
MO	Yes	Yes, ineligible if there is a significant restriction on availability. Some part-time students may be eligible. Does not apply to WIA, Trade Act, and mass layoff students.	WY	Yes, unless previously enrolled in approved training.	Yes, disqualified unless major part of BPW were for services performed while attending school.
MT	No	Yes, disqualified-- including vacation periods. 1/			

INA: Information not available. NOTE: Unless otherwise indicated, state is applying its voluntary quit or availability provisions.

1/ State statutes specifically mention students.
2/ Regulations specifically mention students.

SCHOOL PERSONNEL—FUTA law requires states to deny benefits to instructional, research or principal administrative employees of educational institutions between successive academic years or terms, or, when an agreement so provides, between two regular but not successive terms, if the individual performed such instructional, research or administrative services in the first year or term and has a contract or a reasonable assurance of performing such services in the second year or term. The denial also applies to vacation or holiday periods within school years or terms.

FUTA permits a state, at its option, to deny benefits between successive academic years or terms to other employees of a school or by an educational service agency who perform services to or on behalf of an educational institution if the individual performed services (other than the three types described above) in the one year or term and has a reasonable assurance or a contract to perform services in the second year or term. The option for denial of benefits also applies to vacation or holiday periods within school years or terms. However, FUTA requires states to pay benefits retroactively to school personnel performing these "other" services if they were given a reasonable assurance of reemployment but were not, in fact, rehired when the new school term or year began.

Kansas also applies a between and within-terms denial to school bus drivers not employed by governmental entities, nonprofit organizations or Indian tribes. Arizona has a similar disqualification which applies to school bus contractors.

Alaska provides state interim benefits, if money is appropriated from the general fund, to nonprofessional employees of educational institutions who are noncertified and provide compensated services to a school district for teaching indigenous languages if the individual's benefits are reduced or denied under the between terms or during vacation period provisions of the law.

NONMONETARY ELIGIBILITY

PROFESSIONAL ATHLETES—FUTA requires states to deny benefits to a worker between two successive sport seasons if substantially all of the worker's services in the first season consist of participating in or preparing to participate in sports or athletic events and the worker has a reasonable assurance of performing similar services in the second season.

ALIENS—FUTA requires denial of benefits to certain aliens. Benefits may not be paid based on service performed by an alien unless the alien is one who (1) was lawfully admitted for permanent residence at the time the services were performed and for which the wages paid are used as wage credits; (2) was lawfully present in the United States to perform the services for which the wages paid are used as wages credits; or (3) was permanently residing in the United States "under color of law," including one lawfully present in the United States under provisions of the Immigration and Nationality Act. (Note that aliens must also be legally authorized to work to be considered available for work.)

To avoid discriminating against certain groups in the administration of this provision, federal law requires that the information designed to identify ineligible aliens must be requested of all workers. Whether or not the individual is in an acceptable alien status is determined by a preponderance of the evidence.

DEDUCTIBLE INCOME

Almost all state laws provide that a worker will not receive UI for any week during which the worker is receiving or is seeking benefits under any federal or other state UI law. A few states specifically mention benefits under the Federal Railroad Unemployment Insurance Act. Under most of the laws, no disqualification is imposed if it is finally determined that the worker is ineligible under the other law. The intent is to prevent duplicate payment of benefits for the same week. These disqualifications apply only to the week in which or for which the other payment is received.

Most states have statutory provisions that a worker is ineligible for any week during which such worker receives or has received certain other types of remuneration such as wages in lieu of notice, dismissal wages, worker's compensation for temporary partial disability, holiday and vacation pay, back pay, and benefits under a supplemental unemployment benefit plan. In many states if the payment concerned is less than the weekly benefit amount, the worker receives the difference; in other states no benefits are payable for a week of such payments regardless of the amount of payment. A few states provide for rounding the resultant benefits, like payments for weeks of partial unemployment, to half dollar or dollar amounts.

Wages in Lieu of Notice and Dismissal Payments—A considerable number of states consider wages in lieu of notice to be deductible income. Many states have the same provision for receipt of dismissal payments as for receipt of wages in lieu of notice. The state laws use a variety of terms such as dismissal allowance, dismissal payments, dismissal wages, separation allowances, termination allowances, severance payments, or some combination of these terms. In many states all dismissal payments are included as wages for contribution purposes, as they are under the FUTA. Other states exclude dismissal payments which the employer is not legally required to make. To the extent that dismissal payments are included in taxable wages for contribution purposes, workers receiving such payments may be considered not unemployed, or not totally unemployed, for the weeks concerned. Some states have so ruled in general counsel opinions and benefit decisions. However, under rulings in some states, workers who received dismissal payments have been held to be unemployed because the payments were not made for the period following their separation from work but, instead, with respect to their prior service.

Table 5-13: STATES WITH WAGES IN LIEU OF NOTICE AND DISMISSAL PAYMENTS PROVISIONS								
State	**Wages**	**Dismissal**	**State**	**Wages**	**Dismissal**	**State**	**Wages**	**Dismissal**
AL	D	D	IA	R	R	NM	R: By regulation	
AK	R	R	KY	R		NC	D	D
AR	D		LA	R	R: But not less than 1 week, for each week a BP employer provided severance pay which equaled or exceeded the WBA.	OH	R	R: Not applicable to severance or accrued leave pay based on service for the Armed Forces.
AZ	D (not considered unemployed)	D						
CA	R: By interpre-tation		ME	R	R	SD	R	R
CO	R	R for severance only; other types postpone for the # of weeks of full-time wages they represent.	MD	R: Not applicable if unemployment caused by abolition of job and if the payment is less than the wages and benefits package formerly received.		TN	D	
CT	D	D: Not applicable to severance or accrued leave pay based on service for the Armed Forces.	MA	D		TX	D	
DE		R	MI	D		UT	R	R
DC		R	MN	R	R	VT	R	R
FL	R		NE	R	R	VA	R	R
GA	D	D	NV	D	D	WV	D	
IL	R: By regulation		NH	R	R	WI		R: Only when allocated by close of week, payable at full applicable wage rate and employee had notice of allocation.
IN	R: Excludes greater of first $3 or 1/5 WBA from other than BP employer.		NJ	D		WY	R	R

"R" means weekly benefit is reduced by weekly prorated amount of the payment. "D" means all benefits are denied for the week of receipt.

Worker's Compensation Payments—Nearly half the state laws list worker's compensation under any state or federal law as disqualifying income. Some disqualify for the week concerned; the others consider worker's compensation deductible income and reduce unemployment benefits payable by the amount of the worker's compensation payments. A few states reduce the unemployment benefit only if the worker's compensation payment is for temporary partial disability, the type of worker's compensation payment that a worker most likely could receive while certifying ability to work.

Table 5-14: STATES WITH WORKER'S COMPENSATION PROVISIONS									
State		**State**		**State**		**State**		**State**	
AL	R	GA	D	MA	D	NH	R	TX	D
CA	R	IL	R	MN	R	OH	R	VT	R
CO	R	IA	R	MO	R	RI	R	WV	D
CT	D 1/	KS	D	MT	D	SD	R	WI	R
DE	R	LA	R	NE	R	TN	D		

"R" means weekly benefit is reduced by weekly prorated amount of the payment. "D" means all benefits are denied for the week of receipt.

1/ If worker's compensation received after receipt of UI, worker is liable to repay UI in excess of worker's compensation.

Vacation Pay, Holiday Pay, and Back Pay—Many states consider workers receiving vacation pay as not eligible for benefits; several other states hold workers eligible for benefits if they are on a vacation without pay through no fault of their own. In practically all states, as under the FUTA, vacation pay is considered wages for contribution purposes--in a few states, in the statutory definition of wages; in others, in official explanations, general counsel or attorney general opinions, interpretations, regulations, or other publications of the state agency. Thus a worker receiving vacation pay equal to his weekly benefit amount would, by definition, not be unemployed and would not be eligible for benefits. Some of the explanations point out that vacation pay is considered wages because the employment relationship is not discontinued, and others emphasize that a worker on vacation is not available for work. Vacation payments made at the time of severance of the employment relationship, rather than during a regular vacation shutdown, are considered disqualifying income in some states only if such payments are required under contract and are allocated to specified weeks; in other states such payments, made voluntarily or in accordance with a contract, are not considered disqualifying income.

Table 5-15: STATES WITH HOLIDAY PAY, BACK PAY AND VACATION PAY PROVISIONS							
State	**Holiday**	**Back Pay**	**Vacation**	**State**	**Holiday**	**Back Pay**	**Vacation**
AL		D		MO		R: Employer withholds amount of benefits paid and remits to UI agency.	
AK	R	R: Employer withholds amount of benefits paid and remits to UI agency.	R	NV	Treated as wages the week in which it is paid.	D: Employer withholds amount of benefits paid and remits to UI agency.	D
AR	D	D	D: WBA minus vacation pay in excess of 40% of WBA.	NY	D		D
CA		R		NM		R: By regulation	

Table 5-15: STATES WITH HOLIDAY PAY, BACK PAY AND VACATION PAY PROVISIONS							
State	**Holiday**	**Back Pay**	**Vacation**	**State**	**Holiday**	**Back Pay**	**Vacation**
CO	Treated as wages in the week in which the holiday occurred.	R: Employer withholds amount of benefits paid and remits to UI agency.	D	NC		D: Employer withholds amount of benefits paid and remits to UI agency.	D
DE		R		ND	Reportable during week of holiday.	Not reportable.	Reportable when received unless individual takes vacation prior to lay-off.
DC		Employer withholds amount of benefits paid and remits to UI agency.		OH			R
GA		Employer withholds amount of benefits paid and remits to UI agency.	D	OR	May be deductible depending on circumstances.		May be deductible depending on circumstances.
HI	R	R	R: If continued attachment to employer.				
IL	R		R	PA	R	R	R: Only deductible if claimant has a return to work date.
IN	R: Excludes greater of first $3 or 1/5 WBA from other than BP employer.	R: Excludes greater of first $3 or 1/5 WBA from other than BP employer. Employer withholds amount of benefits paid and remits to UI agency.	R: Excludes greater of first $3 or 1/5 WBA from other than BP employer.	PR			R
IA			R: If employer has designated a specific vacation period, benefits are reduced for that period of time. If not, reduction is limited to one week.	RI			R
KS	R	D: Employer withholds amount of benefits paid and remits to UI agency.	R	SD	R		

Table 5-15: STATES WITH HOLIDAY PAY, BACK PAY AND VACATION PAY PROVISIONS							
State	**Holiday**	**Back Pay**	**Vacation**	**State**	**Holiday**	**Back Pay**	**Vacation**
KY		R: Benefits will be reduced 100% for overpayments caused by back pay award.		TN		R	
LA			R	UT			R
ME	R		R	VT		R	R
MD	R: Not applicable to pay attributable to any period outside the terms of an employment agreement, which specifies scheduled vacation or holiday periods.		R: Not applicable to pay attributable to any period outside the terms of an employment agreement, which specifies scheduled vacation or holiday periods.	VA			R
MA	D			WA		Employer withholds amount of benefits paid and remits to UI agency.	
MI	D	D	D	WV	D	D	D: Except if worker is totally unemployed and if pay is accumulated prior to unemployment.
MN	R	R	R	WI	R: Only when allocated by close of such week, payable at full wage rate, and employee has notice.		R: Only when allocated by close of such week, payable at full wage rate, and employee has notice.
MS		D: Employer withholds amount of benefits paid and remits to UI agency.		WY		R	R

"R" means weekly benefit is reduced by weekly prorated amount of the payment. "D" means benefit are denied for the week of receipt.

Retirement Payments—FUTA requires states to reduce the weekly benefit amount of any individual by the amount, allocated weekly, of any "....governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual..." This requirement applies only to payments made under a plan maintained or contributed to by a base-period or chargeable employer which affected eligibility for or increased the amount of the retirement pay. States are permitted to reduce benefits on less than a dollar-for-dollar basis by taking into account the contributions made by the worker to the plan in question. (This effectively means the FUTA requirement is limited to 100% employer

financed pensions.) Also, the requirement applies only to those payments made on a periodic (as opposed to lump-sum) basis. As a result, the states may have to choose from a variety of options in creating a retirement pay provision.

Table 5-16: EFFECT OF RETIREMENT PAYMENTS

State	Deductions -- All Pensions All Employers (3 States)	Deductions -- All Pensions BP Employer (50 States)	Considers Employee Contributions To Pensions	Excludes Pensions Not Affected By BP Work	State	Deductions -- All Pensions All Employers (3 States)	Deductions -- All Pensions BP Employer (50 States)	Considers Employee Contributions To Pensions	Excludes Pensions Not Affected By BP Work
AL		X		X	NE		X	X 3/	
AK		X	X	X	NV		X	X	X
AZ		X	X	X	NH		X	X	X
AR		X	X		NJ		X	X	
CA		X	X	X	NM		X	X	
CO		X			NY		X	X	X
CT		X	X	X	NC		X		
DE		X	X		ND		X	X	X
DC	X		X		OH		X		
FL		X	X		OK		X		X
GA		X	X	X	OR		X	X	
HI		X	X	X	PA		X	X	X
ID		X 1/	X		PR		X	X	X
IL		X	X		R		X	X	X
IN		X			SC		X	X	
IA		X	X	X	SD		X	X	
KS		X	X	X	TN		X	X	X
KY		X	X	X	TX		X	X	
LA		X			UT		X		
ME		X	X	X	VT	X		X	
MD		X 2/	X		VI		X		
MA		X	X	X	VA	X			
MI		X	X		WA		X	X	X
MN		X			WV		X		X

Table 5-16: EFFECT OF RETIREMENT PAYMENTS									
	Deductions --					Deductions --			
State	All Pensions All Employers (3 States)	All Pensions BP Employer (50 States)	Considers Employee Contributions To Pensions	Excludes Pensions Not Affected By BP Work	State	All Pensions All Employers (3 States)	All Pensions BP Employer (50 States)	Considers Employee Contributions To Pensions	Excludes Pensions Not Affected By BP Work
MS		X			WI		X	X	X
MO		X		X	WY		X	X	
MT		X	X	X					

1/ Only reportable if 100% funded by employer.
2/ Excludes lump sums paid at time of layoff or shutdown of operations.
3/ By Regulation.

Effect of Social Security Payments—Social Security payments are sometimes treated differently from retirement payments in general. The following table indicates the extent, if any, by which the weekly benefit amount is reduced due to receipt of Social Security payments.

Table 5-17: EFFECT OF SOCIAL SECURITY PAYMENTS			
AL	Not Reduced	MT	Not Reduced
AK	Not Reduced	NE	Reduced
AZ	Not Reduced	NV	Not Reduced
AR	Not Reduced	NH	Not Reduced
CA	Not Reduced	NJ	Not Reduced
CO	Reduced by 50%	NM	Not Reduced
CT	Not Reduced	NY	Not Reduced
DE	Not Reduced	NC	Reduced
DC	Not Reduced	OH	Reduced
FL	Not Reduced	OK	Not Reduced
GA	Not Reduced	OR	Not Reduced
HI	Reduced by 50%	PA	Reduced by 50%
ID	Not Reduced	PR	Reduced
IL	Reduced by 50%	RI	Reduced by 50%
IN	Not Reduced	SC	Not Reduced
IA	Not Reduced	SD	Reduced

Table 5-17: EFFECT OF SOCIAL SECURITY PAYMENTS			
KS	Reduced	TN	Not Reduced
KY	Not Reduced	TX	Not Reduced
LA	Reduced by 50%	UT	Reduced
ME	Reduced	VT	Not Reduced
MD	Not Reduced	VA	Reduced by 50%
MA	Reduced by 50%	VI	Reduced
MI	Not Reduced	WA	Not Reduced
MN	Reduced by 50%	WV	Reduced
MS	Not Reduced	WI	Reduced by 50%
MO	Not Reduced	WY	Reduced by 50%
ND	Reduced		

Supplemental Unemployment Payments—A supplemental unemployment payment plan is a system whereby, under a contract, payments are made from an employer-financed trust fund to his workers. The purpose is to provide the worker, while unemployed, with a combined UI and supplemental unemployment benefit payment amounting to a specified proportion of his weekly earnings while employed.

There are two major types of such plans: (1) those (of the Ford-General Motors type) under which the worker has no vested interest and is eligible for payments only if he is laid off by the company; and (2) those under which the worker has a vested interest and may collect if he is out of work for other reasons, such as illness or permanent separation.

All states except New Mexico, Puerto Rico, South Carolina and South Dakota have taken action on the question of permitting supplementation in regard to plans of the Ford-General Motors type. Of the states that have taken action, all permit supplementation without affecting UI payments.

In 48 states permitting supplementation, an interpretive ruling was made either by the attorney general (27 states) or by the employment security agency (10 states); in Maine, supplementation is permitted as a result of a Superior Court decision and, in the remaining 10 states[1] by amendment of the UI statutes.

Some supplemental unemployment benefit plans of the Ford-General Motor type provide for alternative payments or substitute private payments in a state in which a ruling not permitting supplementation is issued. These payments may be made in amounts equal to three or four times the regular weekly private benefit after two or three weekly payments of state UI benefits without supplementation; in lump sums when the layoff ends or the state benefits are exhausted (whichever is earlier); or through alternative payment arrangements to be worked out, depending on the particular supplemental unemployment benefit plan.

[1] AK, CA., CO, GA, HI, IN, MD, NH, OH and VA

Relationship with Other Statutory Provisions—The eleven states[2] which have no provision for any type of disqualifying income except pensions and the larger number which have only two or three types do not necessarily allow benefits to all workers in receipt of the types of payments concerned. When they do not pay benefits to such workers, they rely upon the general able-and-available provisions or the definition of unemployment. Many workers receiving worker's compensation, other than those receiving weekly allowances for dismemberment, are not able to work in terms of the UI law. However, receipt of worker's compensation for injuries in employment does not automatically disqualify an unemployed worker for unemployment benefits. Many states consider that evidence of injury with loss of employment is relevant only as it serves notice that a condition of ineligibility may exist and that a worker may not be able to work and may not be available for work.

[2] AZ, DC, HI, ID, NM, ND, OK, SC, VI, VA and WA