

## Conformity Requirements for State UC Laws

### *Labor Standards*

#### **Background**

Section [3304\(a\)\(5\)](#) of the Federal Unemployment Tax Act (FUTA) provides that compensation shall not be denied to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (A) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- (B) if 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;
- (C) 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.

These requirements are designed to preserve the neutrality of state agencies in labor disputes, prevent unemployment compensation (UC) from exerting downward pressure on existing labor standards, and prevent UC from being used to either impede or encourage labor unions.

#### **Frequently Asked Questions**

1. What happens if an offered job does not meet the labor standards?

If an offered job does not meet the labor standards, a claimant may not be denied benefits for refusing the job, *regardless of the reason for the refusal*.

2. What is new work for purposes of this standard?

In [UIPL 41-98](#), the Department interpreted “new work” to include:

The offer of work to an unemployed individual by an employer for whom he or she has never worked;

The offer of reemployment to an unemployed individual by a previous employer with whom the individual does not have a contract of employment at the time the offer is made; or

The offer by an individual’s present employer of different duties from those the individual has agreed to perform in the existing contract of employment, or different terms or conditions of employment from those in the existing contract.

3. Does the provision in the contract between an employer and employee for a change in the terms or conditions of employment negate the change being considered “new work?”

No. A change in the duties, terms, or conditions of work is, in effect, a termination of the existing contract and constitutes an offer of a new contract. In order to prevent employers from nullifying the prevailing conditions of work requirement by providing for constantly changing conditions in the contract, [UIPL 41-98](#) added the following: “No contract granting the employer the right to change working conditions may act as a bar to determining that new work exists.”

4. What is similar work?

The determination of what constitutes similar work must be made on the basis of the similarity of the operations performed, the skill, ability and knowledge required, and the responsibilities involved. It is not sufficient to compare only on the basis of similar job titles. Once similar work is identified for the locality, the state must focus on what wages or hours are most prevalent and what conditions are most common for similar work in the locality.

**References:**

[UCPL 130](#). Principles Underling the Prevailing Conditions of Work Standard.

[UIPL 984](#). Benefit Determinations and Appeals Which Require Determination of Prevailing Wages, Hours, or Other Conditions of Work.

[UIPL 41-98](#). Application of the Prevailing Conditions of Work Requirement.

[UIPL 41-98, Change 1](#). Application of the Prevailing Conditions of Work Requirement - Questions and Answers