



APPEAL TRIBUNAL DECISION

Docket number: 26 0343 Hearing **date:** June 24, 2026
July 17, 2026

CLAIMANT:

OLGA BROTT
[REDACTED]

EMPLOYER:

KENAI PENINSULA BOROUGH SCHOOL
[REDACTED]

CLAIMANT APPEARANCES:

Olga Brott

EMPLOYER APPEARANCES:

Kristin Vix

CASE HISTORY

The claimant timely appealed a June 3, 2026, determination that denied benefits under AS 23.20.381. The issue before the Appeal Tribunal is whether the claimant is eligible to receive benefits between academic years or terms.

FINDINGS OF FACT

The claimant established a claim for unemployment insurance benefits effective May 17, 2026. The wages in the period on which the claimant's claim is based were earned in employment with the above-named school.

The claimant worked in the 2025-2026 school year as a substitute teacher and substitute aide, which she has done since 2014. The claimant instructed students for ninety per cent of her working hours in those positions. Her last day of work in the school year was May 15, 2026. Students last attended school on May 21, 2026.

The claimant accepted an offer of a new position with the school district between June 15, 2026, and June 23, 2026. The claimant will start a new position as a special education aid at school in the same school district on August 12, 2026. The claimant's duties in that position include assisting the teacher to implement the teaching plan and directly instructing students. Students will return to school for the 2026-2027 school year beginning August 19, 2026.

PROVISIONS OF LAW

AS 23.20.381 states in part:

- (e) Benefits based on service in an instructional, research, or principal administrative capacity for an educational institution may not be paid to an individual for a week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of sabbatical leave provided for in the individual's contract, if the individual performs services in the first of those academic years or terms and if there is a contract of reasonable assurance that the individual will perform services in the same or similar capacity of an educational institution in the second of those academic years or terms.
- (h) Benefits based on services for an educational institution in an other than instructional, research or principal administrative capacity may not be paid to an individual for a week of unemployment, which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of sabbatical leave provided for in the individual's contract, if the individual performs services in the first of those academic years or terms and if there is a contract of reasonable assurance that the individual will perform services in the same or similar capacity of an educational institution in the second of those academic years or terms. If an individual is denied benefits for any week subsequent under this subsection and the individual is not later offered an opportunity to perform services for the educational institution in the second academic year or term, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely under this subsection.
- (i) Benefits based on services described in (e) and (h) of this section may not be paid to an individual for a week that begins during an established and customary vacation period or holiday recess if the individual performs those services in the period immediately before the vacation period recess and there is a reasonable assurance that the individual will perform those services in the period immediately following the vacation period or holiday recess.
- (j) Benefits based on services described in (e) and (h) of this section shall be denied under (e), (h), and (i) of this section to an individual who performed those services in an educational institution while in the employ of an educational service agency. In this subsection, "educational service agency" means a governmental agency or governmental entity that is established and operated exclusively

for the purpose of providing services to one or more educational institutions.

CONCLUSION

The claimant worked for an educational institution during the 2025/2026 school year. AS 23.20.381 holds a claimant is not eligible benefits during a break if they performed services for a school in the first of two terms and has reasonable assurance of performing services in the same or similar capacity in the second term.

The claimant in this case had had the option of applying to return to work for the school district as a substitute teacher or teacher's aid until she accepted work as a full-time aide. After that, she had reasonable assurance of returning to work in a similar capacity, although on a full-time basis instead of as needed. In Hansen, Com. Dec. 11 2147, October 29, 2011, the Commissioner held:

The claimant argues that her work as a full-time teacher was not the same or similar as her work as a substitute as she does not get paid throughout the summer months nor does she work as many hours. However, since she worked during the Spring of 2011 as a substitute and had assurance of returning to such work when school resumed after the summer break, we hold the work was the same or similar. The fact that she only taught as a substitute on a temporary basis does not matter, as long as she has that reasonable assurance of returning to work in the same capacity. The facts in this case show that she has such assurance. Therefore, the disqualification must be upheld during the between-terms period.

The Alaska Supreme Court has provided the definition of "reasonable assurance" as a *"written, verbal, or implied agreement that the employee will perform services in the same capacity during the ensuing academic year or term."* Allen, 658 P2d at 1344. Citing H.R. Rep. No. 94-1754, 94th Cong. 2d Sess. 9

In the case of Alexander, Com. Dec. 81H-196, April 9, 1981, the Commissioner stated in part:

"... any one of these three types of agreement will satisfy the test of 'reasonable assurance,' i.e., a written agreement, a verbal agreement or an implied agreement. Ms. Alexander did have a 'written agreement' to hire if her services were needed --- the Substitute Teachers' Contract. Granted that this 'contract' does not guarantee employment, no guarantee is contemplated in the term 'reasonable assurance.'"

The claimant in this case did not have a guarantee of employment in the next term until she accepted the full-time position, but she did have reasonable

assurance of returning to work in the next school term as a substitute as all she had to do was reapply. Therefore, the claimant is not eligible to receive benefits during the summer break, and the disqualification under AS 23.20.381(e) is appropriate.

DECISION

The determination issued on June 3, 2026, is **AFFIRMED**. Benefits remain **DENIED** for the weeks ending May 30, 2026, through August 22, 2026.

APPEAL RIGHTS

This decision is final unless an appeal is filed in writing to the Commissioner of Labor and Workforce Development **within 30 days** after the decision is mailed to each party. The appeal period may be extended only if the appeal is delayed for circumstances beyond the party's control. A statement of rights and procedures is enclosed.

Dated and mailed on July 22, 2026.

A black rectangular box redacting the signature of Rhonda Buness.

Rhonda Buness, Appeals Officer