

Guidance Document

Pursuant to Neb. Rev. Stat. §84-901.03

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operation of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedures Act. If you believe that this guidance document imposes additional requirement or penalties on regulated parties, you may request a review of the document.

Individuals attached to regular jobs, union, or industry

DISCLAIMER:

This Guidance Document is not intended to take the place of the law, but is intended to provide individuals with a general understanding of some of the requirements related to the Nebraska Department of Labor's waiver of work search requirements for individuals attached to regular jobs, unions, or industries. For additional information individuals may consult the "Handbook for Unemployed Workers" or visit dol.nebraska.gov, where information is provided on the Nebraska Employment Security Law, *Neb. Rev. Stat.* §§48-601 through 48-683 ("NESL"), and portions of the Nebraska Administrative Code related to NESL.

Potential Work Search Waiver:

In accordance with *Neb. Rev. Stat.* §§48-627, the commissioner may, by rule and regulation, waive or alter work search requirements for an unemployment claim if an individual is attached to a regular job or industry or a member in good standing of a union. Accordingly, the Nebraska Department of Labor has promulgated 219 NAC 04 which, in part, allows the commissioner to waive the work search requirement if the individual is attached to a regular job or industry or is eligible for referral as a member in good standing in a labor union which has a union hiring hall.

Attached to a regular job or industry:

In order to be considered attached to a regular job or industry, an individual must be on a short-term temporary layoff. A short-term temporary layoff is defined as a layoff period of 16 weeks or less with a specific return to work date verified by the employer. The 16 weeks is counted from the day the layoff begins until the employer specified return to work date.

Extension:

If work is not available at the conclusion of the 16-week period due to short-term circumstances beyond the employer's control, an extension of the work search waiver of up to two weeks may be requested by the employer.

Recall:

If an individual in attached status is recalled to work by the employer to which he or she is attached, and actually performs work for that employer for at least 80 paid hours at his or her regular rate of pay, any subsequent layoff from that employer during the originally established benefit year restarts the calculation of the temporary layoff period to which the waiver of the work search requirement applies.

Examples:

- 1.) John Doe works for ABC Company. John Doe is laid off from ABC Company on September 1, 2018. ABC Company anticipates John Doe will return to work in 80 days.

John Doe is not required to search for work during his 80-day layoff.

- 2.) Jane Smith works for ABC Company. Jane Smith is laid off from ABC Company on November 1, 2018. ABC Company anticipates Jane Smith will return to work in 150 days.

Jane Smith is required to search for work during her 150-day layoff.

- 3.) John Doe works for ABC Company. John Doe is laid off from ABC Company on September 1, 2018. ABC Company anticipates John Doe will return to work in sixteen weeks.

John Doe is not required to search for work during his sixteen-week layoff.

John Doe returns to work December 20, 2018. John Doe is laid off from ABC Company again on January 31, 2019. ABC Company anticipates John Doe will return to work in 30 days.

John Doe is not required to search for work during his 30-day layoff.

- 4.) Jane Smith works for ABC Company. Jane Smith is laid off from ABC Company on November 1, 2018. ABC Company anticipates Jane Smith will return to work in sixteen weeks.

Jane Smith is not required to search for work during her 16-week layoff.

On her anticipated return to work date, there is a blizzard. ABC Company contacts the Nebraska Department of Labor and requests an extension of one week. The extension is granted, and Jane Smith is not required to search for work during the extension.

- 5.) Jane Smith works for ABC Company. Jane Smith is laid off from ABC Company on November 1, 2018. ABC Company anticipates Jane Smith will return to work in 16 weeks.

Jane Smith is not required to search for work during her sixteen-week layoff.

Jane Smith returns to work. She works 80 hours at the same rate of pay as she was paid prior to the layoff. She is then laid off again. ABC Company anticipates Jane Smith will return to work in 40 days.

Jane Smith is not required to search for work during her 40-day layoff.

- 6.) Jane Smith works for ABC Company. Jane Smith is laid off from ABC Company on November 1, 2018. ABC Company anticipates Jane Smith will return to work in sixteen weeks.

Jane Smith is not required to search for work during her 16-week layoff.

Jane Smith returns to work at the end of the sixteen-week layoff. She works less than 80 hours at her regular rate of pay. She is then laid off. ABC Company anticipates Jane Smith will return to work in 40 days.

Jane Smith is required to search for work during her 40-day layoff.