

Memorandum

PREPARED FOR: Sen. Taylor

DATE: February 10, 2025

Updated March 3, 2025

BY: Tyler Larson, Research Analyst

RE: Unemployment Insurance Benefits and Labor

Disputes



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LEGISLATIVE POLICY
AND RESEARCH OFFICE

This memorandum compares [Senate Bill 916 \(2025\)](#) to existing laws in New York and New Jersey allowing striking workers to access state Unemployment Insurance (UI) benefits.¹ Table 1 (page 3) provides the relevant text from the measure and each state for comparison. **This memorandum was updated March 3, 2025, to respond to questions raised about public employees in New York and New Jersey (page 5).**

Oregon

[ORS 657.200](#) disqualifies a person from receiving UI benefits for any week the Director of the Oregon Employment Department (OED) determines that the unemployment is due to an active labor dispute at the person's place of employment. The disqualification does not apply if the Director finds the person is not permitted to work by the employer due to a lockout. [OAR 471-030-0097](#) establishes that "the term 'labor dispute' as used in the Employment Department law means any concerted or deliberate action by two or more individuals or by an employing unit resulting in either a strike or lockout in which wages, hours, working conditions or terms or employment of the individuals are involved."²

[Senate Bill 916 \(2025\)](#) would establish that an individual who is otherwise eligible for benefits is not disqualified for any week that the Director of OED determines that the unemployment is due to an active labor dispute at the person's place of employment. If enacted, the measure would allow workers who are unemployed due to an active labor dispute to receive benefits for weeks of unemployment after the "waiting week" required by [ORS 657.155](#).

New Jersey

[N.J. Rev. Stat. sect. 43:21-5](#) disqualifies a person from receiving UI benefits if it is found that the unemployment is due to a stoppage of work because of a labor dispute. The

¹ A [February 3, 2025, report from the Economic Policy Institute](#) identifies New Jersey and New York as the only two states that currently extend UI benefits to striking workers.

² [OED's rule](#) indicates the definition is part of the agency's implementation of [ORS 657.200](#). "Labor dispute" is defined more broadly in statutes related to collective bargaining. [ORS 662.010\(1\)](#) and [663.005\(5\)](#) define "labor dispute" for the purposes of private collective bargaining as "any controversy concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee." [ORS 243.650\(12\)](#) defines "labor dispute" for the purposes of public collective bargaining as "any controversy concerning employment relations or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment relations, regardless of whether the disputants stand in the proximate relation of employer and employee."

disqualification does not apply to any period of unemployment commencing on or after January 1, 2022, due to a labor dispute “including a strike or other concerted activities of employees”. A claimant under this section may not be provided UI benefits for the first 14 days of unemployment, except the claimant shall be provided benefits during any part of the 14-day period in which the employer engages a replacement worker for the claimant’s position.

[N.J. Rev. Stat. sect. 2A:15-58](#) defines “labor dispute” to include

“...any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, or concerning employment relations, or any other controversy arising out of the respective interests of employer and employee, regardless of whether or not the disputants stand in the proximate relation of employer and employee.”

Provisions making workers eligible for UI if on strike for more than 30 days were [enacted in 2018](#). Legislation [enacted in 2023](#) reduced the UI waiting period for striking workers from 30 days to 14 days.

New York

[N.Y. Labor Law sect. 592](#) “suspends” the payment of UI benefits for two consecutive weeks after lost employment because of a strike or other industrial controversy except for lockouts. The suspension period does not include the one-week waiting period for all claimants. Benefits are not suspended if the employer hires a permanent replacement worker. The phrase “industrial controversy” appears five times in the Consolidated Laws of New York but is not defined. Caselaw applies the term to certain work stoppages.³

The requirements were last amended by two measures brought by the same sponsor during the 2019-2020 legislative session. The [first measure](#) enacted reduced the suspension period for lost employment because of a strike or other industrial controversy from seven consecutive weeks to one week and allowed the waiting period to be served concurrently.⁴ Current requirements were enacted in a [second measure](#) that increased the suspension period to two consecutive weeks and established the waiting period could not be served during the suspension period.

³ [Matter of Lynch, 44 A.D.2d 866 \(1974\)](#). [Matter of Gar, 90 A.D.2d 652 \(1982\)](#).

⁴ New York’s seven-week suspension requirement was enacted in 1944 and remained in effect until 2020.



Table 1: Relevant Text of [SB 916 \(2025\)](#) and New Jersey and New York UI Labor Dispute Laws

State	UI Disqualifications and Labor Disputes including Waiting Period
Oregon	<p data-bbox="394 329 1014 360">Senate Bill 916 (2025) amending ORS 657.200:</p> <p data-bbox="394 367 1908 500">“An individual who is otherwise eligible for benefits is not disqualified for any week with respect to which the Director of the Employment Department finds that the unemployment of the individual is due to a labor dispute that is in active progress at the factory, establishment or other premises at which the individual is or was last employed or at which the individual claims employment rights by union agreement or otherwise.”</p> <p data-bbox="394 545 579 576">ORS 657.155:</p> <p data-bbox="394 583 1908 651">“(1) An unemployed individual shall be eligible to receive benefits with respect to any week only if the Director of the Employment Department finds that: [...]”</p> <p data-bbox="394 657 1829 721">“(d) The individual has been unemployed for a waiting period of one week, unless the Governor has waived the required waiting period as provided in ORS 401.186.”</p>
New Jersey	<p data-bbox="394 735 768 766">N.J. Rev. Stat. sect. 43:21-5:</p> <p data-bbox="394 773 1050 803">“An individual shall be disqualified for benefits: [...]”</p> <p data-bbox="394 812 1881 912">“(d) If it is found that this unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed, except as otherwise provided by this subsection (d). [...]”</p> <p data-bbox="394 919 1908 1352">“(4) [...] For any claim for a period of unemployment commencing on or after January 1, 2022 due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed, including a strike or other concerted activities of employees at the claimant's workplace, whether or not authorized or sanctioned by a union representing the claimant, but not including a dispute subject to the provisions of paragraph (2) or (3) of this subsection (d), the claimant shall not be provided benefits for a period of the first 14 days following the commencement of the unemployment caused by the labor dispute, except that the claimant shall be provided benefits during any part of that the 14-day period in which the employer engages the services of a replacement worker for the claimant's position, whether that replacement worker is engaged on a permanent or temporary basis, or is an existing worker reassigned permanently or temporarily from other duties to perform the duties of the claimant's position. For any claim for a period of unemployment commencing on or after January 1, 2022 which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed, if the labor dispute has not resulted in a stoppage of work, no disqualification under this subsection (d) shall apply, and the 14-day waiting period in this paragraph (4) shall not apply.”</p>



State**UI Disqualifications and Labor Disputes including Waiting Period**

[N.Y. Labor Law sect. 592:](#)

“Suspension of accumulation of benefit rights. 1. Industrial controversy. (a) The accumulation of benefit rights by a claimant shall be suspended during a period of two consecutive weeks beginning with the day after such claimant lost his or her employment because of a strike or other industrial controversy except for lockouts, including concerted activity not authorized or sanctioned by the recognized or certified bargaining agent of the claimant, and other concerted activity conducted in violation of any existing collective bargaining agreement, in the establishment in which he or she was employed, except that benefit rights may be accumulated before the expiration of such two week period beginning with the day after such strike or other industrial controversy was terminated.

New York

“(b) Benefits shall not be suspended under this section if:

“(i) The employer hires a permanent replacement worker for the employee's position. A replacement worker shall be presumed to be permanent unless the employer certifies in writing that the employee will be able to return to his or her prior position upon conclusion of the strike, in the event the strike terminates prior to the conclusion of the employee's eligibility for benefit rights under this chapter. In the event the employer does not permit such return after such certification, the employee shall be entitled to recover any benefits lost as a result of the two week suspension of benefits, and the department may impose a penalty upon the employer of up to seven hundred fifty dollars per employee per week of benefits lost. The penalty collected shall be paid into the unemployment insurance control fund established pursuant to section five hundred fifty-two-b of this article; [...]

“3. Terms of suspension. No waiting period may be served during a suspension period.”

Source: Legislative Policy and Research Office

Data: Various, hyperlinked



Public Employees

This section provides responses to questions raised during the February 27 public hearing for [Senate Bill 916 \(2025\)](#).

Question 1: Are public school teachers in New York and New Jersey eligible for Unemployment Insurance (UI) benefits?

Public school teachers in both New York and New Jersey who lose their jobs are potentially eligible for UI benefits. Teachers who are out of work during a regular school break and who have reasonable assurance that their employment will resume after the break are not eligible for UI benefits in any state.

Federal Law

The Federal Unemployment Tax Act requires each state to have a law providing UI benefits to employees of educational institutions “in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service” except UI benefits must be denied:

“...for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess”.⁵

New York

According to the [New York Department of Labor](#), teachers who lose a job through no fault of their own may be eligible for UI benefits, subject to the “reasonable assurance” requirements for regular school breaks.

New Jersey

According to the [New Jersey Department of Labor and Workforce Development](#), teachers and other school employees may be eligible for UI benefits. School employees filing for UI during the summer can expedite review of their application by including a copy of the Reduction in Force of Non-Renewal Notice.

⁵ [26 U.S.C. sect. 3304\(a\)\(6\)](#).



Question 2: Are public school teachers in New York and New Jersey prohibited from striking?

New York statute prohibits public employees, including anyone holding a position with a school district or public school, from striking. The Supreme Court of New Jersey has ruled that public employees, including teachers, do not have a right to strike.

New York

[N.Y. Civ. Serv. sect. 210](#) prohibits public employees from striking and establishes penalties for violations including payroll deductions of twice the daily rate of pay for striking employees and loss of recognition as a collective bargaining unit. “Public employee” means any person holding a position in service of a public employer, including a school district or any entity operating a public school.⁶

New Jersey

The Supreme Court of New Jersey has consistently held that public employees, including teachers, do not have a right to strike.⁷ The Court’s reasoning is that “when government undertakes itself to meet a need, it necessarily decides the public interest requires the service, and its employees cannot reverse or frustrate that decision by a concerted refusal to meet that need.”⁸ A school board or other public entity may

- obtain a restraining order against any strike action,
- recover attorney fees and costs, and
- recover non-attorney strike-related expenses in a claim for violating the common law duty prohibiting strikes by public employees.⁹

A court may also impose sanctions against striking public employees to compel compliance the court’s order.¹⁰

⁶ [N.Y. Civ. Serv. sect. 201](#).

⁷ [Board of Ed., Borough of Union Beach v. N.J. Ed. Ass’n](#), 53 N.J. 29, 36 (1968).

⁸ [In re Block](#), 50 N.J. 494, 499 (1967).

⁹ [Franklin Tp. Bd. Of Educ. v. Quakertown Educ. Ass’n](#), 274 N.J.Super. 47, 50-51 (1994).

¹⁰ *Id.*

