



COMMONWEALTH of VIRGINIA
Virginia Employment Commission

Carrie Roth
Commissioner
Advisor to the Governor for
Strategic Initiatives

Post Office Box 26441
Richmond, VA 23261-6441

March 24, 2023

The Honorable Glenn Youngkin
Governor, Commonwealth of Virginia
Patrick Henry Building
1111 E. Broad Street
Richmond, Virginia 23219

The Honorable Kathy Byron
Chairwoman, House Commerce and Energy
Pocahontas Building
900 E. Main Street
Richmond, Virginia 23219

The Honorable Richard Saslaw
Chairman, Senate Commerce and Labor
Senate of Virginia
P.O. Box 396
Richmond, Virginia 23218

The Honorable Adam Ebbin
Chairman, Commission on Unemployment
Compensation
Senate of Virginia
P.O. Box 396
Richmond, Virginia 23218

Dear Governor, Chairmen and Madame Chair:

Per the 2023-2024 Budget of the Commonwealth of Virginia, the Virginia Employment Commission is required to provide a report on the results of: (i) the review of the U.S. Department of Labor (DOL) guidance and model legislation regarding redesigned work-search requirements; (ii) the evaluation of the potential impacts that adopting DOL's guidance would have on incorrect payments and other aspects of VEC's work (e.g., reemployment); and (iii) proposed changes to the state's work search policies as needed, including any proposed legislative changes to the Governor, House Commerce and Energy Committee, the Senate Commerce and Labor Committee, and the Commission on Unemployment Compensation. This letter serves to meet that requirement and will be published and updated as also required within the current budget language.

Review and Evaluation U.S. Department of Labor Model Work Search Legislation

The U.S. Department of Labor (DOL) made three recommendations regarding work search legislation outlined in the Department's Training and Employment Notice Number 17-19, February 10, 2020.

1. The first recommendation is the requirement for claimants to be actively seeking work.

The proposed text to amend state codes from DOL reads as follows:

As a condition of eligibility for unemployment compensation in any week, a claimant must be able to work, available to work, and actively seeking work, unless exempted under [reference state and federal law for work search exemptions].

The requirement that a claimant be able and available and actively seeking work is required in the Virginia Code at 60.2-612 (7)a, and states:

He is able to work, is available for work, and is actively seeking and unable to obtain suitable work. Every claimant who is totally unemployed shall report to the Commission the names of employers contacted each week in his effort to obtain work. This information may be subject to employer verification by the Commission through a program designed for that purpose.

The VEC believes the state statute is in-line with the federal recommendation and no amendments or additions are needed.

2. The second recommendation is to clearly define what it means to be actively seeking work.

The proposed statutory language from DOL is below:

A claimant must meet the following requirements to be actively seeking work:

1. A claimant who receives referrals from [the department] to a job or jobs considered to be suitable, as otherwise defined in state law, must apply for such job(s) within one week of receiving the referral and accept employment in suitable work if offered;

2. The claimant has performed at least the required number of acceptable work search activities in the week for which benefits are claimed as established in state [regulation and/or policy]. Acceptable work search activities include:

- a) Creating a reemployment plan*
- b) Creating a resume*
- c) Uploading their resume to online job boards*
- d) Registering for work with the state's labor exchange system, placement firm, temporary work agencies, or educational institution with job placement offices*
- e) Using online career tools*
- f) Logging on and looking for work in the state's labor exchange or other online job matching system*
- g) Using reemployment services in [American Job Centers] or completing similar online*

or self-service activities (e.g. obtaining and using labor market and career information, participating in Reemployment Services and Eligibility Assessment (RESEA) activities, participating in skills assessment for occupational matching, instructional workshops, or other specialized activities)

h) Completing job applications for employers that have (or are reasonably expected to have) job openings, or following through on job referrals or job development attempts, as directed by state workforce or UI staff

i) Applying for and/or participating in employment and training services provided by partner programs in [American Job Centers]

j) Creating a personal user profile on a professional networking site

k) Participating in work-related networking events (e.g. job clubs, job fairs, industry association events, networking groups, etc.)

l) Making contacts or in-person visits to employers that have, or are reasonably expected to have, job openings

m) Taking a civil service exam

n) Going on interviews with employers (virtually or in-person); or

o) Any other work search activities prescribed by the state in [regulation and/or policy] and

3. The claimant has maintained a work search activity log and submitted weekly work search activity logs to the state UI agency using the method prescribed in state [regulation and/or policy].

Virginia State Code covers that a claimant needs to register with job service and receive job referrals and outlines that claimants must conduct multiple job contacts within the week. The relevant Virginia Code Section 60.2-612 is below:

7. a. He is able to work, is available for work, and is actively seeking and unable to obtain suitable work. Every claimant who is totally unemployed shall report to the commission the names of employers contacted each week in his effort to obtain work. This information may be subject to employer verification by the Commission through a program designed for that purpose. The Commission may determine that registration by a claimant with the Virginia State Job Service may constitute a valid employer contact and satisfy the search for work requirement of this subsection in labor market areas where job opportunities are limited. The Commission may determine that an individual, whose usual and customary means of soliciting work in his occupation is through contact with a single hiring hall which makes contacts with multiple employers on behalf of the claimant, meets the requirement that he be actively seeking and unable to obtain suitable work by contacting that hiring hall alone. In areas of high unemployment, as determined by the Commission, the Commission has the authority to adjust the requirement that he be actively seeking and unable to obtain suitable work.

The VEC believes that the Virginia Code sufficiently covers the intent of the federal recommendation, but it could be amended to include change how many job contacts or what job search activities can substitute for a job contact. The VEC's relevant definitions found in its Code of Regulations and General Rules 16 VAC 5-10-10 could be amended to define job search

and job activities. However, the current law and practice requires each claimant to conduct two job contacts a week. The VEC believes it should receive the recommendation of the Commission on Unemployment Compensation if job contacts can be substituted with job search activities provided by the DOL legislation.

3. The third recommendation is that claimants must receive notification of the requirement to be actively seeking work.

The Virginia Code covers the requirement that claimants must be registered for work in 60.2-615(5.). All claimants receive in writing to keep their claim active that they must be registered for job service and actively searching for work. This requirement is also outlined in the *Benefits Rights and Responsibilities* document that all claimants receive.

The VEC does not have any recommendations on amending the Virginia Code as this requirement is already met.

Please do not hesitate to contact me at carrie.roth@vec.virginia.gov or 804.786.3001 with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Carrie Roth".

Carrie Roth