

Washington State Trade Adjustment Assistance Policy

Policy Number: 3035 (2009)

Policy Title: On-the-Job Training and Other Non-Classroom Training under the 2009 Amendments

Effective Date: March 01, 2019

1. **Purpose:**

To communicate the expectations, standards, and rationale required for justifying and approving a Trade Adjustment Assistance (TAA) On-the-Job Training (OJT) and Apprenticeship Training for petitions under 2009 amendments.

2. **Background:**

The Trade Adjustment Assistance for Workers Program (TAA program) was first established in the Trade Act of 1974 as a tool to retrain trade impacted workers and help them find suitable employment. The Trade and Globalization Adjustment Assistance Act (TGAAA) of 2009 (Public Law 111-5) was enacted on February 17, 2009, and extended the TGAAA program through December 31, 2010. It expanded TAA benefits for workers, firms, and Farmers, including workers and firms in the service sector. It also improves workers' opportunities for reemployment services, training, and income support. The 2009 Program applies to workers covered under petition numbers TA-W 70,000 – 79,999.

3. **Policy:**

The objective of OJT is achieving marketable skills for a participant's return to suitable employment. The TAA case manager will make every effort to help the participant successfully complete the approved training plan. Only one training program can be approved under a specific Trade Act certification. All six criteria for training approval must be documented to support an approval or denial of training.

a. **On-the-Job Training (OJT)**

The term "On-the-Job Training" also known as OJT, is a hands-on method of teaching the skills, knowledge, and competencies needed for employees to perform a specific job within the workplace. Training is provided to a paid participant while engaged in productive work in a job that:

- Provides knowledge or skills essential to the full and adequate performance of the job.
- Is compatible with the skills of the worker.

- Can be measured by benchmarks that indicate that the worker is gaining such knowledge or skills.
- May be combined with classroom training, if necessary.
- Provides reimbursement to the employer of up to 50 percent of the wage rate of the participant for the extraordinary costs of providing the training and additional supervision related to the training.
- Is completed within 104 weeks.

Documentation Requirements

Completed documents will be uploaded in the Case Management System (CMS).

- All required assessments
- Six Criteria for Training Approval
- Approval of Training Request
- OJT Individual Training Plan
- OJT Master Contract
- OJT Participant Responsibilities
- OJT Task Analysis
- OJT Invoice and Progress Tracking
- OJT Employer Billing Information
- Case note documentation will begin with the initial assessment and end at the time of program exit. Information about participant health issues and sensitive personal and confidential information will not be documented in the state case management system.

i. Employer Assurances

Private employers, public agencies and private or non-profit companies or corporations are eligible to participate. Before approval of an OJT, the employer must:

- Collaborate with the case manager in the development of the OJT plan so they understand the purpose of the OJT and their training responsibilities.
- Agree that the participant cannot displace a currently employed worker, including partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits.
- The employer cannot train a participant in a job if another worker is in layoff status for the same job.
- The employer's rate of labor turnover cannot substantially exceed the rate of labor turnover for similar jobs in the same area.
- The employer has not terminated the employment of any regular employee or otherwise reduced the workforce with the intention of filling the vacancy so created by hiring the eligible participant.
- The employer cannot train a participant in a job created in a promotional line that will, in any way, infringe upon the promotional opportunities of currently employed individuals.
- The employer must make every effort to retain the participant for at least 26 weeks after completion of the training.
- The employer has not violated the terms of a prior OJT contract.

ii. Case Manager Assurances

Prior to the approval of an OJT, the case manager must assure:

- The participant completes all required assessments and develops an appropriate training plan that justifies the need for training.
- The OJT meets the six criteria for training approval.
- The participant's attendance in the training is considered full time.
- The participant cannot enter into an OJT agreement in an occupation similar to the job of dislocation in which the participant gained trade certification.
- The participant cannot start training until the individual training plan and master contract is signed by all parties.
- The participant must only enter into an OJT agreement in an occupation for which there is demand, potential for sustained growth and permanent, full-time employment.
- The case manager and participant must arrange and conduct the OJT within the participant's local labor market. When training is not available within the local labor market then the OJT may be conducted outside of the local area.
- The case manager must only approve an OJT that is conducted within the state of Washington. As an exception, a case manager may approve an OJT conducted within a bordering state (Oregon or Idaho).

iii. Fiscal/Reimbursement

What can a case manager do?

- The employer, the participant, and the case manager must sign the OJT contract agreement and agree to the terms and conditions *prior* to the commencement of training.
- The case manager must reimburse an employer up to 50 percent for the cost of a participant's wages *for time spent during working hours* in such training activities. All costs incurred under these provisions must have prior approval and be documented by the employer.
- The cost for classroom training or other required job related training provided to the participant as part of the OJT may be reimbursed to the OJT employer *only* if such training is in addition to the level of those provided to regular employees.
- The case manager must pay classroom training directly to the school with the agreement of the employer.
- The case manager must *only* use TAA funds to reimburse the employer for the costs associated with training a participant.
- Both the employer and the participant must sign reimbursement invoices and timesheets.
- The case manager must monitor the progress and performance in accordance with the OJT plan, through Benchmarks, Progress Tracking, and at the worksite, at least once a month.
- The case manager must upload progress tracking forms, time sheets and copies of invoices in the participant's file in the CMS.

A case manager cannot:

- Provide reimbursement to the employer unless there is a signed and approved OJT contract in place.
- Reimburse the employer for fringe benefits, vacation and sick time hours, overtime hours, or hours in excess of 40 hours per week.
- Approve OJT for an incumbent worker.

iv. Duration and Reimbursement Rate

When determining the length of the training contract the case manager must take into consideration the:

- Duration of the OJT must be appropriate for the occupation in which the worker is being trained. The duration should reflect the time required for the worker to become proficient in the training provided.
- Content of the training.
- Skill requirements of the occupation.
- Academic and occupational skill level of the participant.
- Participant's prior experience and skills.

Under OJT, the allowable employer reimbursement should fairly represent compensation for the costs and the lower productivity associated with training a participant on the job.

The actual reimbursement rate must be negotiated with the employer *but* cannot exceed 50 percent of regular wages paid to the worker by the employer.

v. Collective Bargaining and Apprenticeship Programs

Training cannot impair existing contracts for services or collective bargaining agreements.

The case manager must obtain from the appropriate labor organization a written concurrence if the training is inconsistent with the terms of a collective bargaining agreement. This must be included in the OJT contract.

If the OJT is a pre-apprenticeship training program that provides participants with basic skills needed to meet the eligibility requirements for registered apprenticeship programs, it must be coordinated with the appropriate trade or craft and joint apprenticeship and training committee responsible for the apprenticeship program.

b. Apprenticeship Training

Case managers can approve apprenticeship programs, when suitable, under the Trade Adjustment Assistance (TAA) program guidelines. Like OJT, approving apprenticeship training requires the case manager to consider:

- That the duration of the apprenticeship is appropriate for the occupation for which the worker is being trained.
- That the training period reflect the time required for the worker to become proficient with the needed occupational skills to retain suitable employment.
- When determining the length of the training plan, the case manager must take into consideration the skill requirements of the apprenticeship occupation, the academic and occupational skill training required, and any prior work experience.

Case managers must also ensure the following conditions are met **before** approving any apprenticeship training:

- The apprenticeship must be registered in the State of Washington or an adjacent state.
- The occupational goal of the apprenticeship training must be in a demand occupation as defined on the local area [Demand/Decline Occupations](#) list.
- The participant completes all required assessments and develops an appropriate training plan that justifies the need for apprenticeship training.
- The participant can achieve the vocational goal as identified and within the term of the approved training plan.
- The apprenticeship training meets the six conditions for the approval of training.
- The participant's attendance in the apprenticeship training is considered full time.
- The length of the apprenticeship will be completed in 156 weeks.
- The participant must realize that apprenticeships are long-term commitments of one to six years usually within one geographic location and be willing to thoroughly research the scope and commitment they need to make to complete the apprenticeship training program.

Exception: A case manager may approve an apprenticeship within a bordering state, where there are established reciprocal agreements (i.e., Oregon, Idaho, and Montana) or with specific apprenticeship programs existing outside the state with affiliations with labor unions residing within the state (i.e., Seafarers International Union—SIU).

TAA funds can be used to pay for the expenses associated with related instruction (e.g., classroom and distance learning), tools, uniforms, equipment, and books for workers in a registered apprenticeship program. These TAA funds can be used until the worker achieves "suitable employment" (which is the purpose of training) or 156 weeks, whichever comes first, while participating in the registered apprenticeship program.

Occupational training provided to the participant as part of an apprenticeship may be reimbursed directly to the apprentice operator or the appropriate community and technical college if agreed upon with the apprenticeship provider within the contract.

The purchase of tools and equipment to complete the apprenticeship is allowed only when an itemized list of required tools is provided by the apprenticeship or training provider.

c. Entrepreneurial Training

Entrepreneurial or self-employment training is **not** allowed under TAA per 20 CFR 617.3(kk)(2) which excludes entrepreneurial and self-employment from the definition of “suitable work”.

d. Veteran's Priority of Services

The TAA program must comply with the Jobs for Veterans Act, enacted into Public Law 107- 288 on November 2, 2002. Covered veterans determined eligible for the TAA program must receive priority over non veterans for the receipt of services provided under the TAA program.

4. Definitions:

Refer to references.

5. References:

- [Public Law 111-5](#), Trade and Globalization Adjustment Assistance Act of 2009
- [20 CFR Part 618](#), TAA Final Rule
- [Training and Employment Guidance Letter \(TEGL\) 22-08](#), Operating Instructions for Implementing the Amendments to the Trade Act of 1974 enacted by the Trade and Globalization Adjustment Assistance Act of 2009; [Change 1](#).

6. Supersedes:

None

7. Website:

[Workforce Professionals Center](#)

8. Action:

Employment Security Department Regional Directors and WorkSource Administrators must distribute this policy broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

9. Attachments:

None

Direct Inquiries To:

*Employment System Administration and Policy
Employment System Policy and Integrity Division
Employment Security Department
P.O. Box 9046
Olympia, WA 98506-9046
SystemPolicy@esd.wa.gov*