

# Washington State Trade Adjustment Assistance Policy

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**Policy Number:** 3035, Revision 3 (2011)

**Policy Title:** On-the-Job Training and Other Work-Based Training

**Effective Date:** February 11, 2022

## 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 other Work-Based Training for petitions certified under 2011 rules.

This third revision removes references to Health Coverage Tax Credit (HCTC) benefits. HCTC expired 12/31/2021.

## 2. Background:

The U.S. Department of Labor (DOL) published TAA Final Rule 20 CFR part 618 on August 21, 2020. Through this final rulemaking, the Department modernizes the TAA Program, provides additional flexibility to states, and consolidates all applicable program regulations into a single section of the Code of Federal Regulations and continued to align the program with WIOA.

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 Adjustment Assistance Extension Act (TAAEA) of 2011 (Public Law 112-40) was enacted on October 21, 2011. The TAAEA again reauthorized the TAA program with changes to benefits. The 2011 Amendments include a reduction in number of eligible groups qualified for TAA, elimination of three training waivers, and elimination of the additional 26 weeks of TRA for workers participating in prerequisite or remedial training, with the addition of a new Completion TRA component.

The 2011 amendments apply to petitions filed on or after October 21, 2011, and numbered TA-W 81,000 – 89,999. There is a special retroactive applicability for petitions numbered 80,000 – 80,999. Eligible workers with petitions in this range were able elect to receive benefits in accordance with either 2002 or 2011 amendments.

## 3. Policy:

The objective of an OJT or Work-Based training is achieving marketable skills for a participant's return to suitable employment. TAA case managers will make every effort to help participants successfully complete approved training plans at reasonable cost and as quickly as possible.

This policy provides the expectations, standards, and rationale required for justifying and approving TAA training. All [six criteria](#) must be documented to support an approval or denial of training. Only one training program can be approved under a single certification.

#### **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 participant.
- Can be measured by benchmarks that indicate that the worker is gaining such knowledge or skills.
- May be combined with related education, such as classroom or distance learning 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.
- Must be completed within 104 weeks.
- Is expected to lead to suitable employment.
- Can be paired with Reemployment Trade Adjustment Assistance for participants who meet the RTAA eligibility criteria.

#### **i. Employer Assurances**

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

- Collaborate with case managers in the development of OJT plans so they understand the purpose of the OJT and their training responsibilities.
- Agree that participants cannot displace currently employed workers, including partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits.
- Not train participants for jobs where another worker is in layoff status for the same job.
- Confirm their rate of labor turnover does not substantially exceed the rate of labor turnover for similar jobs in the same area.
- Not have terminated the employment of any regular employees or otherwise reduced the workforce with the intention of filling the vacancies with eligible participants.
- Not train participants in jobs created in promotional lines that will, in any way, infringe upon the promotional opportunities of currently employed individuals.
- Make every effort to retain participants for at least 26 weeks after completion of the training.

- Not have violated the terms of a prior OJT contract with TAA or any other Federal programs.

## ii. Case Manager Assurances

Prior to the approval of an OJT, case managers must ensure:

- Participants complete all required assessments, Individual Employment Plans (IEP) and develop appropriate training plans that justify the need for training.
- OJTs meet the six criteria for training approval.
- Participants' attendance in the OJT is considered full time.
- Participants cannot enter into OJT agreements in occupations similar to the job of dislocation in which participants gained trade certification.
- Participants cannot start training until the individual training plans and master contracts are signed by all parties.
- Participants only enter into OJT agreements in occupations for which there is demand, potential for sustained growth and permanent, full-time employment.
- Notify participants of the loss of TRA income support, if applicable.
- Only approve OJTs that are conducted within the state of Washington. As an exception, case managers may approve OJT conducted within a bordering state (Oregon or Idaho).

## iii. Fiscal/Reimbursement

*Case manager responsibilities:*

- Must have employers, participants, and case managers signatures on the OJT contract agreement and agree to the terms and conditions *prior* to the commencement of OJT.
- Must reimburse employers up to 50 percent for the cost of participants' wages *for time spent during working hours* in such OJT activities. All costs incurred under these provisions must have prior approval and be documented by employers.
- Cost for classroom training or other required job-related training provided to participants as part of OJT may be reimbursed to OJT employers *only* if such training is in addition to the level of those provided to regular employees.
- Must pay classroom training directly to the school with the agreement of employers.
- May leverage WIOA funds to provide a reimbursement at a rate equal to that allowable under WIOA to employers for their costs.
- Both employers and participants must sign reimbursement invoices and timesheets.
- Must monitor the progress and performance in accordance with OJT plans through Benchmarks, Progress Tracking, and at worksites, at least once a month.
- Must pay invoices in monthly installments.

- Must upload progress tracking forms, time sheets and copies of invoices into participant files in the management information system.

*Case managers cannot:*

- Approve OJT for Adversely Affected Incumbent Workers (AAIW).
- Provide reimbursement to employers unless there are signed and approved OJT contracts in place.
- Reimburse employers for fringe benefits, vacation and sick time hours, overtime hours, or hours more than 40 hours per week.

#### **iv. Duration and Reimbursement Rate**

When determining the length of training contracts, case managers must take into consideration the following:

- Duration of the OJT as appropriate for the occupations in which participants are to be trained. The duration should reflect the time required for the worker to become proficient in the training provided.
- Must be within the allowable 104 weeks.
- Content of the training.
- Skill requirements of the occupation.
- Academic and occupational skill level of participants.
- Participants' prior experience and skills.

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

Actual TAA reimbursement rates must be negotiated with employers *but* cannot exceed 50 percent of regular wages paid to workers by the employers. WIOA funds can be leveraged to reimburse employers up to the maximum allowed under WIOA.

#### **v. Collective Bargaining and Apprentices Programs**

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

Case managers must obtain from appropriate labor organizations a written concurrence if the training is inconsistent with the terms of collective bargaining agreements. This must be included in OJT contracts.

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**

Registered apprenticeships under the National Apprenticeship Act, as well as other training programs that include a paid work-based learning component and required educational or instructional component that results in the issuance of an industry-recognized credential, are approvable TAA Program training activities.

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

- The duration of the apprenticeship is appropriate for the occupations for which participants are to be trained.
- The training periods reflect the time required for participants to become proficient with the needed occupational skills to retain suitable employment.
- The skill requirements of the apprenticeship occupations, the academic and occupational skill training required, and any prior work experience when determining the length of the training plan.
- The employer may be reimbursed up to 50 percent of the regular wage rate.
- The paid work-based component of the apprenticeship is limited to 130 weeks.
- Any related education (i.e., classroom or distance learning) is not limited.
- Participants may be eligible for RTAA while in apprenticeship training, if all other RTAA criteria are met.
- Participants may lose TRA income support, if applicable.

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

- Must be registered in the State of Washington or an adjacent state.
- The occupational goals of the apprenticeship training must be in a demand occupations as defined by local area [Demand/Decline Occupations](#) lists.
- Participants complete all required assessments, IEPs and develop appropriate training plans that justify the need for apprenticeship training.
- Participants can achieve vocational goals as identified and within the term of the approved training plans.
- Trainings meet the six criteria for approval of training.
- Participants' attendance in apprenticeship training is considered full time.
- Although the work-based apprenticeship training must be completed within 130 weeks, the length of the educational portion is only limited by the scheduled completion date of the apprenticeship.
- Participants 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 needed to complete apprenticeship training programs.

**Exception:** Case managers may approve apprenticeships within a bordering state where there are established reciprocal agreements (i.e., Oregon, Idaho, and Montana) or with specific apprenticeship programs located outside the state with affiliated labor unions located within the state (i.e., Seafarers International Union

–SIU).

#### **i. Fiscal/Reimbursement of Apprenticeships**

Costs for an apprenticeship program may be approved only if it's determined that:

- No currently employed worker is displaced (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) by the apprentice.
- Such training does not impair existing contracts for services or collective bargaining agreements.
- In the case of training that would be inconsistent with the terms of a collective bargaining agreement, written agreement has been obtained from the affected labor organization.
- No other worker is on layoff from the same or any substantially equivalent job for which the apprentice is being trained.
- The employer has not terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the resulting vacancy with the apprentice.
- The job for which the apprentice is being trained is not being created in a promotional line that will interfere in any way with the promotional opportunities of currently employed workers.
- The training is not for the same occupation as the apprentice's adversely affected employment.
- The employer has not received payment under the TAA Program or under any other Federal law for any other apprenticeship provided by such employer that failed to meet the requirements of this section or the requirements of the other Federal laws governing employment practices; and
- The employer has not taken, at any time, any action that violated the terms of this section with respect to any other apprenticeship provided by the employer for which the State has made a payment under the TAA Program.

The employer may be reimbursed up to 50 percent of the regular wage rate for the cost of providing the training and additional supervision during the apprenticeship.

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 participants in a registered apprenticeship program. These TAA funds can be used until participants achieve "suitable employment" (which is the purpose of training) or 130 weeks, whichever comes first, while participating in registered apprenticeship programs.

Purchase of tools and equipment to complete apprenticeships is allowed only when itemized lists of required tools are provided by apprenticeship or training providers.

Occupational training provided to participants as part of an apprenticeship may

be reimbursed directly to apprenticeship operators or appropriate community and technical colleges if agreed upon with the apprenticeship providers within the contract.

### **c. Customized Training**

Customized training is designed to meet the special requirements of a single employer or a group of employers. Training may be conducted by a training provider, a single employer, or group of employers.

Case managers must ensure the following conditions are met before customized training can begin:

- A written agreement with the employer(s) to employ the participants upon completion of training.
- Documentation that describes the conditions that must be met for successful completion of training and reiterates the expectation of employment once training is completed.
- Employer(s) must pay at least 50 percent of the cost for training.
- If an adversely affected incumbent worker is included in the training, it must not be for the same position they are threatened with.

### **d. Entrepreneurial Training**

Training consisting of only entrepreneurial training is **not** allowed as it conflicts with the goal of TAA approved training under 20 CFR 618.600.

Training that leads to self-employment can be approved if the occupational goal meets the six criteria for training approval and suitable employment definition.

### **e. Documentation Requirements**

All required forms for training will be uploaded in the management information system. 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 management information system.

### **f. 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 nonveterans for the receipt of services provided under the TAA program.

## **4. Definitions:**

Suitable Employment - Work of a substantially equal or higher skill level than the worker's past adversely affected employment (as described for the purposes of the Trade Act of 1974, P.L 93-618), and wages for such work that are not less than 80 percent of the

worker's average weekly wage. Part-time, temporary, short-term, or threatened employment is not suitable employment.

**5. References:**

- [20 CFR Part 618.](#)

**6. Supersedes:**

TAA Policy 3035, Revision 2 - On-the-Job Training and Other Work-Based Training under 2011 Amendments dated April 14, 2021.

**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.

**Direct Inquiries To:**

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