



Trade Adjustment Assistance (TAA) Policy Employment System Administration and Policy

Washington envisions a nationally recognized fully integrated One-Stop system with enhanced customer access to program services, improved long-term employment outcomes for job seekers and consistent, high quality services to business customers. In order to achieve this vision, Employment System Administration and Policy sets a common direction and standards for Washington's WorkSource system through the development of WorkSource system policies, information memoranda, and technical assistance.

Policy Number: 3035, Revision 1 (2015 Amendments)

To: Washington WorkSource System

Effective Date: September 25, 2017

Subject: On the Job Training and Other Non-Classroom Training under the 2015 Amendments

1. **Purpose:**

To communicate requirements when approving Trade Adjustment Assistance (TAA) Training for petitions approved for 2015.

2. **Background:**

The amended Trade Act of 1974 created Trade Adjustment Assistance (TAA) program to help individuals who became unemployed as a result of increased imports, return to suitable employment. The TAA program provides for reemployment services and allowances for eligible individuals. The objective of TAA training 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. 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.

3. **Policy:**

[On the Job Training](#) | [Employer Assurances](#) | [Case Manager Assurances](#) | [Fiscal/Reimbursement](#) | [Duration and Reimbursement Rate](#) | [Collective Bargaining and Apprenticeship Programs](#) | [Apprenticeship Training](#) | [Entrepreneurial Training](#) | [Veteran's Priority of Service](#)

a. On-the-Job Training (OJT)

The term “on-the-job training” means training by an employer that 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,
- 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, and
- Training must be completed within allowable weeks.

The OJT occupation must be determined in demand, the affected occupation must be determined in decline, and it is a full-time subsidized employment activity. It is skills training provided by an employer at the employer’s place of business, and may be combined with classroom training. An individual is not eligible to receive TRA payments for any week he or she is in OJT.

Assessment

Initial Assessment

Case managers must focus on early intervention, assessment, and reemployment services. Case Managers will provide each participant with an initial assessment to determine the appropriate level of service and the best path to reemployment. Initial assessments should determine if the participant is job ready or is in need of training to gain new work skills for reemployment.

When it is determined that a participant has marketable employment skills they should be referred to the appropriate services available through the WorkSource system. When suitable employment is not available in the local labor market area, or area to which the participant is willing to relocate, the participant must receive a more comprehensive assessment in order to determine if training services are appropriate.

Comprehensive Assessment

A comprehensive assessment will serve as the foundation and justification for all participants receiving training services offered through the Trade Act program shall serve as a guide in the development of the participant’s training plan.

Comprehensive assessments are detailed examinations of the participant's qualifications, skills and capabilities and should explore any relevant facets that may impact successful completion of the proposed training plan. This includes exploring a combination, or all, of the following: educational background; employment history; information about basic literacy (math, reading, and writing); occupational skill levels; transferable skills; English language proficiency; interests; aptitudes; family and financial situation; emotional and physical health, including disabilities; attitudes toward work; motivation; and supportive service needs.

Approach

The case managers should use a multifaceted approach to the assessment process by using the following assessment tools and techniques:

1. Structured interviews
2. Behavioral observations
3. Interest inventories
4. Career guidance instruments
5. Aptitude/skill tests
6. Basic skills tests

Documentation requirements

Both initial and comprehensive assessments will be documented in the state case management system. Case notes made in the state case management system will document and track progress and completion of the participant's program services and activities. 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.

Recommended Assessment Tools

A comprehensive assessment must use the approved state assessment tool when assessing basic skills levels, deficiencies, and to develop an appropriate training plan that identifies the occupational goal and justification for needed training.

Exception: If a co-enrollment partner has already performed a comprehensive assessment, the case manager can use the results from that assessment. Case managers must review the assessment, if any elements of that assessment are missing that would have been assessed in the state's assessment tool, the case manager must administer the missing elements.

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 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.

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- 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 contact.

ii. Case Manager Assurances

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

- The participant completes a comprehensive assessment and develops an appropriate training plan that justifies the need for training.
- The participant can achieve the vocational goal identified in the services plan in state case management system within the term of the approved training plan.
- The on-the-job training meets the six conditions for training approval.
- The participant's attendance in the training is considered full time.
- The participant cannot enter into an on-the-job training agreement in an occupation similar to the job of dislocation in which the participant gained trade certification.
- The participant cannot start training until a signed training agreement is in place.
- The participant must only enter into an on-the-job training 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 on-the-job training within the local labor market. When training is not available within the local labor market then on-the-job training may be conducted outside of the local area.
- The case manager must only approve on-the-job training 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) as long as the OJT is monitored on a monthly basis.

iii. Fiscal/Reimbursement

No TRA payments or other TAA funds for transportation, or subsistence payments are allowable while the participant is participating in an OJT.

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 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. This must be included in the services plan in the state case management system.
- 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 of the participant in accordance with the on-the-job training plan, at the worksite, at least once a month. The case manager must keep original time sheets and copies of invoices in the participant's file.

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, overtime hours, or hours in excess of 40 hours per week.
- Use TAA funds to pay for wages.

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 for 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, and
- Participant's prior experience and skills (as documented in the services plan in the state case management system).

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:

- i. The duration of the apprenticeship must be appropriate for the occupation for which the worker is being trained.
- ii. The training period should reflect the time required for the worker to become proficient with the needed occupational skills to retain suitable employment.
- iii. 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:

- iv. The apprenticeship must be a registered apprenticeship in the State of Washington or an adjacent state.
- v. The occupational goal of the apprenticeship training must be in a demand occupation as defined on the local area [Demand/Decline Occupations](#) list.
- vi. The participant completes a comprehensive assessment and develops an appropriate training plan that justifies the need for apprenticeship training.

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.

- vii. The participant can achieve the vocational goal as identified and within the term of the approved training plan.
- viii. The apprenticeship training meets the six conditions for the approval of training.
- ix. The participant's attendance in the apprenticeship training is considered full time.
- x. The length of the apprenticeship, in its entirety, is within 104 weeks of training allowable under the Trade Adjustment Assistance (TAA) program.
- xi. The case manager must only approve apprenticeship training that is conducted within the State of Washington.

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).

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c. Entrepreneurial Training

Previous policy guidance provided direction allowing entrepreneurial training. Based on information from the federal Department of Labor entrepreneurial training will **no longer** be an approvable TAA training plan.

Entrepreneurial or self-employment training is **not** allowed under TAA per 20 CFR617.3(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 appropriate services provided under the TAA program.

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4. **Definitions:**

Refer to references

5. **References:**

[Public Law 93-618](#), Trade Act of 1974, as amended in 2015
http://wdr.doleta.gov/directives/attach/TEGL/TEGL_05-15.pdf
http://wdr.doleta.gov/directives/attach/TEGL/TEGL_5-15_Change_1_acc.pdf

6. **Supersedes:**

None

7. **Website:**

<http://wpc.wa.gov/adm/policy>

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

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