

- Mandatory
- Informational
- Best Practice
- Other



## TAA TECHNICAL ASSISTANCE

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**Department/Document Number:** Department of Workforce Development, TAA Unit/TA 21-02

**Topic:** TAA Standards and Procedures for Approving Training

**Purpose:** To provide guidance on the Trade Adjustment Assistance (TAA) program's regulatory requirements for determining the availability of suitable employment for individuals requesting training benefits through the TAA program.

### Content

#### Background

The goal of the TAA program is to help each worker participating in the program obtain suitable employment, whenever possible, and to return to employment as quickly as possible. The TAA program provides trade-affected workers with opportunities to obtain the skills, credentials, resources, and support necessary to become reemployed in a good job. One benefit of the TAA program, is training.

The TAA training benefit is considered a "lifetime" benefit, defined as the life of the TAA program. Once an individual receives a positive TAA certification the individual may apply for the TAA training benefit at any time as long as the TAA program is in law. There is no maximum benefit amount allowable for training, however a requested training must meet the six criteria of training approval.

#### Types of Training

Eligible trade-affected workers must be provided training using either one, or a combination of, the following methods:

##### Work-based Training

Work-based training includes Apprenticeships (both state-defined and USDOL registered apprenticeship programs), on-the-job training (OJT), and customized training. Work-based training is only available to workers who have been fully separated from their TAA-certified employer (Adversely Affected Workers). Work-based training is not available to workers who have not been separated from their TAA-certified employer (Adversely Affected Incumbent Workers).

## **Institutional and Higher Education Training (Classroom Training)**

Institutional training includes all technical certificates and occupational licenses/certifications from public area career and technical education schools and community colleges. Higher education training includes all accredited colleges, universities, and educational institutions for the purposes of obtaining a certification or degree. Advanced degrees may be approved, and states may not restrict access to advanced degrees when the criteria of approval of training under 20CFR 618.615 have been met.

## **Distance Education Training**

Distance education may be approved when all or part of an educational or vocational program is conducted online and when the final certificate or degree that is awarded is the equivalent in standard of achievement and content to the certificate or degree awarded for in-person institutional training. Any provider of distance learning must be based in the United States. In addition, the worker must be physically within the United States when participating in distance learning to maintain eligibility for the TAA program.

## **Remedial Education**

Remedial education includes Adult Basic Education (ABE) courses, High School Equivalency (HSE) preparation courses, and English Language Learner (ELL) courses. Remedial training may occur before, or while participating in, other types of approvable types of training.

## **Prerequisite Training**

Prerequisite training includes any program of education or coursework required by a training provider before advancing to further training.

## **Criteria for the Approval of Training**

When determining approval for TAA-funded training, the state is required to consult the participant's assessment results and IEP prior to approving a participant's application for training. Training must be approved by the state agency, TAA Unit. The TAA Unit reviews and determines that all of the criteria outlined below have been met. The participant and case manager are required to document all of the following using the [Six Criteria of Training Justification](#) form.

### **Criterion 1: Suitable Employment**

The first criterion for the approval of training under the TAA program requires that, "there is no suitable employment available to the trade-affected worker." TAA case managers must work with TAA participants to show that, within the commuting area or an area for which the participant intends to relocate, that there is no reasonable prospect of suitable employment becoming available to the participant.

### **Suitable Employment Definition**

Suitable employment is defined as work of a substantially equal or higher skill level than the participant's separating employment from the TAA-certified company and wages for such work that are not less than 80% of the participant's average weekly wage. Part-time, temporary, short-term, or threatened employment is **not** considered suitable employment.

The participant's inability or ability to obtain suitable employment within their commuting area, must be documented in the participants Initial Assessment (Objective Assessment within the case management system).

Suitable Employment must be documented using real-time local Labor Market Information (LMI). Case managers may use:

- Indiana Career Connect (e.g. job vacancy listings and occupational outlooks)
- Hoosiers by the Numbers
- Partner program provided reports or data for the regional/local area

Employment occurring prior to a participant's application for training does not of itself preclude a worker from meeting Criteria 1. However, the participant must show that their new employment does not meet the suitable employment definition above.

For purposes of calculating a reemployment wage to determine if the new employment meets the suitable employment definition above, the TAA case manager may include the participant's stated salary and, to the extent known, the value of any compensation package that would be defined as remuneration under Indiana state law. This includes any pay that compensates the employee for labor or service rendered. Indiana Code § 22-2-9-1(b) states, "The term 'wages' means all amounts at which the labor or service rendered is recompensed, whether the amount is fixed or ascertained on a time, task, piece, or commission basis, or in any other method of calculating such amount." Any payments that depend on contingencies such as customer payments, profitability or productivity of the company, employee attendance, employee tenure with the company, or commemoration of a holiday or company anniversary are not counted as "wages".

For the purpose of calculating reemployment wages to determine suitable employment, all gross wages including regular, PTO, and overtime are to be included. Bonuses that directly relate to the employee's work and are compensated on a regular basis for regular work done by the employee may also be included. Any bonus that is contingent on company performance or on a non-regular schedule may not be included.

## **Criterion 2: Benefit from Training**

The second criterion for the approval of training under the TAA program requires that, "the trade-affected worker would benefit from appropriate training".

The second criterion of training must reflect that the participant's requested training would increase the participant's likelihood of obtaining employment. This means that after the training is complete the training would improve the participant's ability to gain employment at a higher wage than if the participant did not undergo training. If employment at a higher wage is not immediately available, the training should place the participant in a career pathway to do so. Any training plan submitted for Apprenticeship or On-the-Job (OJT) training must result in suitable employment upon the completion of the Apprenticeship or OJT training plan.

Additionally, the second criterion of training must be supported by the participant's assessment results as well as the participant's mental and physical capability to undertake and complete training successfully. Every TAA participant that requests the training benefit is required to undergo assessments to determine if the participant has the adequate academic ability to successfully complete training as well as the skills, interests, and abilities to match with their occupational goal. If a participant refuses to complete the comprehensive assessments, TAA case managers must notify the participant that their refusal may result in an unfavorable decision to their request for training. Additional information on the required assessments may be found in [20-04 TAA Technical Assistance Case Management and Assessments](#) effective November 5, 2020.

TAA does not have a minimum score requirement that a participant must meet to be eligible for training. Each participant will be assessed based on needs and requirements of the requested specific training program(s). Case managers are required to address any basic skills deficiencies with the participant through Adult Education coursework, English Language Learning coursework, or tutoring, to be included as part of the TAA training plan. The participant is required to meet the minimum requirements to enter a specific program. If an individual does not meet those minimum requirements, the TAA case manager, in coordination with the participant, must first explore if remedial training will assist the individual in meeting that goal. Case managers cannot, under any circumstances, diagnose or request medical background information from the participant. Medical diagnoses are **prohibited** from being documented in a participant's case file. If a worker discloses a medical condition that may prevent them from being

successful in training, the case manager is required to reach out to the TAA Unit immediately to seek additional guidance.

### **Criterion 3: Reasonable Expectation of Employment**

The third criterion of training requires that the requested training will result in a reasonable expectation of employment within the workers commuting area or an area in which the worker is planning to relocate following completion of the requested training.

The “reasonable expectation of employment” does not require that employment opportunities for the worker be immediately available, or offered, following the completion of training. However, there must be a projection, supported by local labor market information, of employment opportunities expected to exist at the time of the completion of the training program.

When determining “reasonable expectation of employment” case managers are required to utilize the following labor market data:

- Indiana Career Connect
- Hoosiers by the Numbers
- Written verification from local Business Service Representative (BSR)
- Job offer letter from potential new employer
- Partner program provided reports or data for the region/local area

Case managers and participants must reference job order activity, short-term projections data, job vacancy surveys, or specific insight from local or regional Business Service representatives. If the worker plans to relocate, the participant and case manager must document Criteria 3 with labor market information for the area of planned relocation. If desired relocation area is inside Indiana, the participant and case manager must use the same labor market resources listed above for the area or region that the participant is planning on relocating.

If the participant plans to relocate outside of Indiana, labor market information must be obtained for the requested relocation area. *Example: If participant is requesting training for Hotel Management and will be relocating to the Florida area, Florida labor market information must be included.* This may be obtained by researching the America’s Job Center information available at: <https://www.careeronestop.org/site/american-job-center.aspx>.

### **Limited Demand Occupations**

A limited demand occupation is an occupation that does not have a high increase in demand or has limited employment opportunities expected in the future. Reasonable expectation of employment may exist in limited demand occupations and does not preclude approval of training as long as the requested training occupation is supported by business or employer insight showing that upon the completion of training the participant will meet the market need for the occupation and that there is reasonable expectation of employment within the occupational field.

### **Training Leading to Self-Employment**

Training may be approved for an occupation that will lead to self-employment if the self-employment provides the worker with wages or earnings at or near the participant’s separating employment from their TAA-certified employer. Additionally, the participant and the case manager must still show through labor market information or BSR insight that there is a reasonable expectation of employment within the occupation following the completion of training.

#### **Criterion 4: Reasonably Available**

The fourth criterion of training requires that the requested training is reasonably available to the worker.

TAA participants and case managers must first consider and research training providers that are available within their commuting area. When there are no suitable training providers within the commuting area, the participant and case manager may request a training provider outside of the commuting area. If a participant requests training outside of the commuting area, the training plan must include transportation costs. For more information on Transportation and Subsistence for TAA Training, please refer to [20-02 TAA Technical Assistance- Commuting Area and Transportation/Subsistence Calculations for TAA Training Benefit](#).

#### **Criterion 5: Qualified to Undertake Training**

The fifth criterion of training requires that the worker is qualified to undertake and complete the requested training.

TAA participants and case managers must work together to ensure that the participant's assessment results, educational background, work experience, and financial resources are adequate to complete the requested training successfully.

#### **Financial Resources**

The participant and TAA case manager must review the participants available UI and TRA benefits to ensure that the length of training does not exceed the participants eligibility for Unemployment Insurance (UI) and/or Trade Readjustment Allowance (TRA) benefits. When or if the training is expected to outlast the participant's eligibility for UI or TRA, or when there is expected to be a large gap between TRA Additional and TRA Completion, the TAA participant and case manager must document the other available sources of income support the participant may reasonably access in order to support themselves through the completion of training. Other sources of income that may be considered include severance, earnings from other family members, part-time employment earnings, or other family resources. TAA case managers must also discuss and document the availability of other Federal student financial assistance, such as PELL grant.

The participant and case manager must document whether or not the participant has adequate financial resources to complete the training program. If the worker does not have adequate financial resources to support themselves through the duration of the requested training, the TAA case manager must advise the participant that the training plan may not be approved and must advise the participant of other training opportunities available to the participant that will align with their financial needs.

#### **Criterion 6: Reasonable Cost**

The sixth criterion of training requires that the requested training is suitable to the worker and available at a reasonable cost.

#### **Suitable to the Worker**

In order to meet the "suitable to the worker" part of the sixth criteria of training, the participant and the TAA case manager must have documentation supporting that the participant meets the first five criteria of the approval of training.

## Available at a Reasonable Cost

When determining if training is available at a reasonable cost, the following costs must be considered:

- Tuition and related expenses (books, tools, required supplies and equipment)
- Required laboratory, division, and academic fees
- Licensing and certification exam fees
- Supplemental assistance (Transportation and/or subsistence)

TAA participants are required to complete the TAA Research Packet in order to compare costs of similar training programs across a minimum of three providers to assist in the determination of reasonable cost training. When a participant requests training at a significantly higher cost, the participant must be able to show that the training is reasonably expected to result in one of the following:

- Higher likelihood of employment or employment retention
- Greater earnings
- Returns the participant to the workforce in a significantly shorter duration

Additionally, training requests for higher cost training providers must also show that the training is, when all costs are considered, of substantially better quality, content, and results.

Training outside of a participant commuting area that requires transportation and/or subsistence payments that add substantially to a training plan may not be approved if there is other appropriate training available within the commuting area at a lower cost, unless the requested provider offers training that is proven to be better in quality, content, and results.

## Other Limitations on Training Approval

All TAA participants are limited to one training plan per TAA certification. TAA training plans may be modified during the course of training. A TAA training plan may consist of multiple types of training, including any of those types identified in the Types of Training section above.

TAA participants may attend training on a full-time or part-time basis. Full-time is defined by the individual training provider, not by the TAA program. While participants may attend training part-time, participants who elect to attend training part-time will not be eligible for any payments under the Trade Readjustment Allowance (TRA) benefit while participating in part-time training. As such, the TAA participant will also not be eligible for the Health Coverage Tax Credit (HCTC) benefit. If a TAA participant elects to attend training part-time it is the TAA case manager's responsibility to notify the worker of the full-time requirement for TRA and document the discussion in case notes.

## Previous Training Approved Under WIOA or Other Law

When a TAA petition has been filed by or on behalf of a group of workers but has not yet been certified by USDOL, training may be approved for a worker under another State or Federal law or authority. Training approved for a worker under another State or Federal law or authority is not training approved under TAA. If USDOL determines the worker group to be certified eligible for TAA, the TAA case manager must work with the participant to ensure that their training approved under WIOA or other state/federal law meets the six criteria of training under the TAA program. TAA training approval cannot be retroactive for any part of the training that occurred prior to the TAA certification and training plan application approval from the TAA Unit.

If a participant engages in training through a partner program, once a TAA certification has occurred, the partner program and TAA case management staff must work together to transfer the participant to TAA. The participant must apply for training through the TAA program and receive approval prior to the next natural break in training. The TAA funding must begin, if approved, at the next available semester/term/quarter at the requested training provider.

## Length of Training

When determining the length of a training plan, the participant and case manager must work to ensure that the participant's request for training is appropriate to meet the desired skill level and not in excess of the maximum durations listed below.

Depending on the type of training that the participant is attending, the length of training is subject to a maximum duration, as follows:

- Classroom Training: Maximum 130 Training Weeks
- Distance Learning: Maximum 130 Training Weeks
- Prerequisite/Remedial Training: Maximum 130 Training Weeks
- On-the-Job Training: Maximum 104 weeks or ONET Specific Vocational Preparation (SVP) limitation, whichever is lesser of the two
- Apprenticeship: Classroom portion has no maximum; Work-based portion must be completed within 130 weeks

When calculating the length of training, weeks that the participant physically attends training are counted, weeks that occur during scheduled breaks in training, are not counted.

## Service Member Exception

A TAA participant who is a member of the reserve components of the US Armed Forces who serves a period of duty will have that time suspended upon being called up for a period of duty lasting more than 30 days. The TAA participant may resume training upon discharge from active service for the remaining training weeks, may be allowed to repeat portions of the training if doing so is necessary for the completion of the approved training program, or when appropriate, may begin a new approved training program. In these circumstances, if the participant repeats part of the training program or begins a new training program, the participant will be entitled to a new 130-week period to complete the approved training as long as these conditions are met:

- Before completing training, the participant has given prior oral or written notice of the active-duty service to the TAA Unit, unless providing such notice is precluded by military necessity, and
- The returning service member must apply to the TAA Unit for training within 90 days following release from active-duty service.

## Employment While In Training

TAA training participants may work full or part time while attending TAA-approved training. Once a participant has started approved training, that participant may elect to terminate the employment, reduce the hours worked in the employment, or continue in full or part-time employment with no negative impacts to their TAA training or TRA benefits. A TAA participant who quits employment due to beginning TAA-approved training is not subject to ineligibility or disqualification for UI or TRA as a result of such termination or reduction in employment. TAA participants who voluntarily quit or are terminated from employment prior to having a training plan approved through the TAA program, may place UI and TRA eligibility at risk of disqualification.

## Benefit Determinations

Any participant requesting to apply for TAA-funded training must submit the following documentation to the TAA Unit:

- TAA Training Plan Application (2 pages)
- Six Criteria of Training Justification
- Financial Worksheet
- Training Curriculum
- List of Required Tools/Supplies

- Participant Research Packet (scanned into ICC)
- Transportation and Subsistence Application (if requesting travel or per diem)

After the TAA Unit receives the training plan request and supporting documentation, the TAA Unit will review the request and information from the case management system to determine if the eligibility criteria have been met. The TAA Unit will issue a formal determination within ten (10) business days of receipt of the completed training request and supporting documentation. If the training request is approved, the TAA Unit will notify the case manager in writing of the approval. The case manager is then required to notify the participant of the approval and any requirements or conditions of the approval. If the training request is denied, the TAA Unit will issue a Notice of Denial to the participant via FedEx overnight delivery.

### **Appeals**

If the participant's training request is denied, the participant has the right to appeal the determination within ten (10) business days of receipt of the determination. The determination of eligibility will be considered final after the ten (10) days have passed or after the completion and final Administrative Law Judge ruling, if appealed.

**Effective Date:** September 21, 2020.

Please direct all questions to the [TAATrainingPlans@dwd.in.gov](mailto:TAATrainingPlans@dwd.in.gov) inbox.