

INSTRUCTION LETTER



INSTRUCTION NUMBER: WIOA Local Instruction 20-03

TO: WIOA Staff and Contractors

SUBJECT: Trade Adjustment Assistance Occupational Skills Training Approval Policy

DATE
ISSUED: April 15, 2021

DATE
EFFECTIVE: Immediately

DATE
EXPIRES: Indefinitely

PURPOSE: To provide guidance on Trade Adjustment Assistance (TAA or Trade) training approval procedures in order to improve training completion and the marketability of credentials earned by TAA training participants.

REFERENCES:

- 19 USC § 2296 (Trade Act of 1974)
- 20 CFR Part 618, Subpart C and Subpart F
- 20 CFR § 618.110
- Training and Employment Guidance Letters 15-10, 1-19
- Training and Employment Notice 25-19
- IEP Policy and TAA Memo

BACKGROUND: The TAA program's goal is to help each trade-affected worker participating in the program obtain suitable employment as quickly as possible. One method of reaching this goal is through access to occupational skills training. Occupational skills training under the TAA program, at a reasonable cost and as quickly as possible, must assist a trade-affected worker in obtaining the necessary skills to have a reasonable expectation of reemployment. All else being equal, training that replaces 100 percent or more of a trade-affected worker's wages in adversely affected employment, or that qualifies as suitable employment, is preferred.

Under the Trade Act of 1974, occupational skills training must be approved for an adversely affected worker (AAW) or an adversely affected incumbent worker (AAIW) if all six conditions are met:

- There is no suitable employment (which may include technical and professional employment) available for an adversely affected worker.

- There is a reasonable expectation of employment following completion of such training.
- Training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include area vocational technical education schools, as defined in Carl D. Perkins Vocational and Applied Technology Education Act, and employers).
- The worker is qualified to undertake and complete such training.
- Such training is suitable for the worker and available at a reasonable cost.

On August 21, 2020, the US Department of Labor (DOL) released the first substantive rulemaking on the TAA program in over 15 years, consolidating and updating the federal regulations implementing the Trade Act of 1974, as amended, including providing updated guidance on occupational skills training approval.

POLICY: A trade-affected worker may apply for training and may be approved for training at any time after the certification date on which the worker group is certified, without regard to whether such worker has applied for or exhausted all rights to any UI to which the worker is entitled. Occupational skills training under the TAA program must be approved if after considering the worker's initial assessment, any comprehensive and specialized assessments, and the worker's IEP, the proposed training program meets all six criteria discussed in this policy. In order to achieve the desired skill level in the shortest possible time, training should be of the shortest duration possible, and under no circumstance can training exceed the maximum of 130 weeks, excluding scheduled breaks in training, allowed under the Trade Act.

Evaluating Credentials and Quickly Achieving Suitable Employment

TAA case managers should assist TAA participants in choosing training which leads to industry- recognized, portable, stackable, and accredited credentials that will help participants to reach increasingly higher qualification levels on their career pathways. Stackability is one attribute of educational and workforce credentials that strengthen the value of credentials to individuals. A credential is considered stackable when it is part of a sequence of credentials that can be accumulated over time to build up an individual's qualifications and help them to move along a career pathway or up a career ladder to different and potentially higher-paying jobs. TAA participants should be encouraged to consider short-term, and stackable (where

appropriate), credentialing as a way to achieve faster results with less delay for participants in finding quality employment. Case managers should review Training and Employment Notice (TEN) 25-19 for further guidance on evaluating credentials in order to provide workers with needed guidance in choosing training programs, including guidance on the four key characteristics of credentials: Industry-Recognized, Stackable, Portable, and Accredited.

Individual Employment Plans (IEPs) and Assessments

An IEP is a revisable document containing an ongoing strategy, jointly developed by the trade-affected worker and TAA program staff, identifying the worker's employment goals, appropriate achievement objectives, and appropriate services for the worker to achieve his or her employment goals, objectives, and benchmarks while in training or receiving employment and case management services.

Before approving an application for training, the trade-affected worker's assessment results and IEP, if available, must be consulted. Assessment results must support the training program set out in the worker's IEP before an application for training is approved, and information provided in the IEP should justify each identified career service being provided to the worker, including potential training. An IEP must be developed prior to a worker pursuing any training activities. At a minimum, IEPs must include the following elements:

- Career goals, including targeted occupation and industry, based on the participant's work history, education, training, special skills, interests, and aptitudes;
- Proposed training program
- Clearly defined action steps/objectives to be implemented by the worker to meet the employment goal, including career services, supportive services provided through partner programs, and post-training case management services;
- Any barriers to employment, supportive service needs, and planned methods to address barriers; and
- The worker's responsibilities under the plan.

A worker may refuse to complete comprehensive and specialized assessments or to develop an IEP; however, since assessments and portions of the IEP are necessary to determine eligibility for training, a worker's refusal to provide necessary information, either as part of the IEP or outside of the IEP process, or through

assessments, may result in denial of training benefits and services. If TAA program staff can gather sufficient information in order to make a determination on the six required training approval criteria, an application for training may still be approved. The information necessary to determine eligibility for training must be documented.

For additional guidance on developing and maintaining IEPs, see State Instruction (SI) 18-01, Individual Employment Plans, and the "IEP Procedures for TAA Staff Memo" issued October 7, 2018.

Academic Readiness

In order to determine whether a worker is qualified, the worker must be assessed for academic preparedness using the currently available Test for Adult Basic Education (TABE) assessment. While other assessments, such as the WIN Work Readiness assessment, may be appropriate in addition to the TABE assessment, work readiness assessments do not adequately gauge workers for preparedness for academic study.

Note: An exception can be made for an interstate participant who is receiving case management in another state and TAA funding from SC. However, most states' adult education agencies use TABE or similar tests of adult basic education to assess the worker's ability to be successful in a learning environment.

Required Criteria for Training Approval

Occupational skills training must be approved for a trade-affected worker if all six of the following criteria are met. Case managers must use the attached ***TAA Training Justification and Recommendation Form*** when gathering information and preparing to make a recommendation for approval or denial of a worker's proposed training program.

CRITERION 1: There is no suitable employment (which may include technical and professional employment) available for an adversely affected worker.

Suitable employment means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, 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. Suitable employment must be available for a trade-affected worker in either the commuting area or another area outside of the commuting area to which the worker intends to relocate; and there must be a reasonable prospect of such suitable employment becoming available for the worker within the foreseeable future. Under the training approval criteria, "commuting distance" is the distance traveled to the trade-affected employer.

For purposes of determining suitable employment, case managers must look at the wages and skill level of the adversely affected employment. Case managers must look at the wages paid at the time of separation from adversely affected employment and not, in many cases, the worker's most recent separation, which might not be from adversely affected employment.

If an application for training, or a training program, is denied because there is suitable employment available for the adversely affected worker, case managers must document the availability of suitable employment through traditional and real-time labor market information (LMI) including, but not limited to, projections data, job postings, and job vacancy surveys. Furthermore, case managers must complete the denied training application and must include the denied training application in the worker's file, along with the LMI data gathered to document the availability of suitable employment and any additional case notes, as needed.

All TAA participants seeking training must provide a detailed history of job searches prior to training approval. Job search histories must include the following information:

- Business applied to,
- Detailed description of position,
- Method of application,
- Date of application, and
- Result of job application.

TAA participants must use the attached ***TAA Job Search Tracking Form*** to provide the required job search histories prior to seeking training.

CRITERION 2: The worker would benefit from appropriate training.

The worker would benefit from appropriate training when training, skills training, or remedial education would increase the likelihood of obtaining employment.

Appropriate training should improve the worker's chances of obtaining employment at higher wages than in the absence of training or place the worker on a pathway to do so. The worker must have the knowledge, skills, and abilities to undertake, make satisfactory progress in, and complete the training program.

Note: Under both section 504 of the Rehabilitation Act (Rehab Act) and section 188 of the Workforce Innovation and Opportunity Act (WIOA), a qualified trade affected worker in this context is one who satisfies the requisite skill, experience, education, and other training-related requirements, and who with or without a reasonable accommodation can perform the essential functions of such training. For disability related questions, or any EO related questions, please contact the TAA Program Manager.

CRITERION 3: There is a reasonable expectation of employment following completion of such training.

There is a reasonable expectation of employment following completion of such training. Given the labor market conditions expected to exist at the time of the completion of the training program, a reasonable expectation, fairly and objectively considered, exists that the trade-affected worker is likely to find employment, using the skills and education acquired while in training, upon completion of approved training. The labor market conditions considered must be limited to those in the worker's commuting area, or in the area where the worker intends to relocate.

In order to demonstrate "a reasonable expectation of employment" when initially approving a training program, there must be a projection, based on LMI, of employment opportunities expected to exist at the time of completion of the training program. Expected job market conditions must be measured using pertinent LMI, including but not limited to job order activity, short-term projections data, job vacancy surveys, business visitation programs, and local and regional strategic plans. This LMI must be documented in the trade affected worker's case file. Case managers should work with business team members to understand current labor market conditions and opportunities for work-based learning.

For a worker who wishes to relocate within the United States, but outside the worker's present commuting area upon completion of training, the LMI for the area the worker intends to relocate to must be included in the worker's file, rather than the LMI for the area in which the worker currently resides.

Limited Demand Occupations

A reasonable expectation of employment may exist in a limited demand occupation for a single, trained worker in the worker's commuting area or in an area to which the worker desires to relocate. Training may be approved in an occupation where there is a reasonable expectation that the worker can secure employment in that occupation. Documentation must be included in the case worker's file indicating the following:

- Demand exists for an individual with the training with businesses in the commuting area or in the area of intended relocation.
- The number of individuals currently enrolled in training that are likely to meet that demand have been considered before enrolling additional workers in training for that occupation.

Self-Employment

A training program in an occupation may be approved if there is a reasonable expectation that the training will lead to self-employment in the occupation for which the worker requests training and that such self-employment will provide the worker with wages or earnings at or near the worker's wages in adversely affected employment.

On-the-Job Training (OJT)

Training programs that consist solely of OJT, or contain an OJT component; may only be approved if the training program is expected to lead to suitable employment with the employer providing the OJT.

CRITERION 4: Training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include area vocational technical education schools, as defined in Carl D. Perkins Vocational and Applied Technology Education Act, and employers).

Staff must first consider where training opportunities are available within the worker's commuting area. Training may be approved if it is outside of the commuting area if none is available at the time in the worker's commuting area. Training programs that require a worker to pass a test in order to be granted admission into a program cannot be approved. Programs that require a worker to linger on a waitlist while the worker's Trade Readjustment Allowance (TRA) benefits run out cannot be approved.

Distance Learning/Online Training

Distance learning, including online training, is where:

- A worker may complete all or part of an educational or vocational program in a geographical location apart from the institution hosting the training program, and
- The final certificate or degree conferred is equivalent in standard of achievement and content to the same program completed on campus or at another institutional training location.

A distance-learning provider must be based in the United States for the training to be approved, and the worker must be physically within the United States when participating in distance learning to remain eligible for benefits under TAA. Furthermore, distance learning is subject to all training approval criteria described in this policy.

Note: Not all online programs are approvable under TAA. Training programs must be accredited and lead to an industry recognized credential in order to be approved under the TAA program.

Online training programs may be approved only if the program meets the following requirements:

- TAA voucher accepted as payment for all required training and training-related costs.
- Program is administered with a structured regimen, with no self-paced courses or classes required in order to successfully complete the program.
- Each class has a designated instructor from whom the student can seek help or ask questions.
- Program leads to a OOL recognized certificate, diploma, or degree.
- Attendance, i.e., login times and duration, must be tracked by the training provider. This does not include instructor emails.

Case managers must establish and monitor the milestones of a distance-learning program based on the worker's IEP. A worker who does not meet the requirements or milestones of a distance-learning program may be determined to have ceased participation in training.

Higher Education

Higher education includes any training or coursework at an accredited institution, as described in section 102 of the Higher Education Act of 1965, as amended, including training or coursework for the purpose of obtaining a degree or certification, or for completing a degree or certification that the worker had begun previously at an accredited institution of higher education. Higher education may be approved alone or in combination with work-based training.

Advanced Degrees

Training programs that will lead to an advanced degree may be approved; however, the maximum duration for training-130 weeks, not including scheduled breaks in training-still applies. TAA Occupational Training Approval may be granted for a training program leading to an advanced degree if all six training approval criteria described in this policy are met.

All training programs must be evaluated on their individual merit. Advanced degree training program applications are reviewed by the TAA Operations Coordinator, the TAA Program Manager, and an independent reviewer who is experienced in both TAA and workforce development.

CRITERION 5: The worker is qualified to undertake and complete such training.

Workers must be qualified to undertake and complete training funded under the TAA program. The worker's knowledge, skills, abilities, educational background, work experience, and financial resources are adequate to undertake and complete the specific training program being considered. The initial assessment, any comprehensive and specialized assessments, and the worker's IEP must be consulted to support the trade-affected worker's ability to undertake and complete the training program. In order to determine whether a worker is qualified, the worker must be assessed for academic preparedness using the currently available TABE assessment.

Educational Background

Workers must meet the prerequisites of a training program and be able to complete a training program within 130 weeks. Case managers must review the curriculum for a training program to determine if there are any prerequisites to entering and/or completing a training program. If the worker does not meet all prerequisites, the case manager must determine if the worker is able to complete the prerequisites and the training program within the maximum amount of time the TAA program

allows before approving training. Case managers must document their review of a worker's curriculum in case notes.

Work Experience

In determining whether a worker is qualified to undertake training, case managers must verify that the worker has a sufficient level of experience in order to gain suitable employment following training completion. Case managers should review the worker's resume, or if no resume is available, case managers should provide detailed case notes outlining the worker's work experience, including previous employment, time in previous employment, and relevant skills gained. Workers should have enough work experience to obtain suitable employment upon training completion.

Sufficient Financial Resources to Complete Training

Where the worker's remaining available weeks of UI and TRA payments will not equal or exceed the duration of the training program, the worker must have sufficient financial resources to support completion of the training program within 130 weeks, excluding scheduled breaks in training. Case managers must consider the following:

- Worker's remaining weeks of UI and TRA payments in relation to the duration of the proposed training program;
- Other sources of income support available to the worker, including severance, earnings of other family members, and other family resources;
- Other fixed financial obligations and expenses of the worker and family;
- Availability of Federal student financial assistance or any State-funded student financial assistance or any private funding designated for student financial assistance including, but not limited to, nongovernmental scholarships, awards, or grants; and
- Whether or not the worker is employed while attending training.

In considering the worker's financial means of support, case managers should think creatively and consider a wide array of options, including whether the worker has access to supports like the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) benefits or if the worker is able to attain part-time employment while continuing training. Case managers must document whether or not the trade-affected worker has sufficient financial resources to complete the training program that exceeds the duration of UI and TRA payments. If the worker does not have sufficient financial resources to complete the proposed training program that exceeds the duration of UI and TRA payments,

then the training approval must be denied, and the case manager and trade-affected worker must instead consider other training opportunities available to the worker.

Case managers should assist workers in evaluating training programs in order to find shorter-term programs, offering stackable credentials when possible, in order to avoid financial constraints barring workers from achieving their employment goals.

CRITERION 6: Such training is suitable for the worker and available at a reasonable cost.

Suitable for the Worker

A proposed training program is suitable for the worker if there is a reasonable expectation of employment following completion of the proposed training program as determined under Criterion 3, above, as compared to the worker's knowledge, skills and abilities, background, and experience relative to the worker's employment goal as identified in Criterion 5, above. To determine whether a proposed training program is suitable for the worker, case managers must consider whether there is a reasonable expectation that the particular worker, after successfully completing the training, has a reasonable expectation of employment based on the worker's particular background, experience, and employment goal. Case managers should be familiar with the training programs available in the area in order to provide guidance to the worker on their options within the area based on the worker's interests, skill sets, and assessments, and the quality of the programs available.

Available at a Reasonable Cost

Costs of a training program may include, but are not limited to, the following:

- Tuition
- Books
- Tools
- Computers and other electronic devisees
- Internet Access
- Uniforms and Other Training-Related Clothing such as goggles and work boots
- Laboratory Fees
- Other Required Academic Fees
- Supplemental Assistance, such as subsistence and transportation expenses

Case managers must determine that training program costs are reasonable by researching costs for similar training programs, regardless of whether it is classroom or work-based training. Related expenses must be necessary for the worker to complete the training program. Case managers should consider other options before purchasing equipment or related materials.

Unless the exception described below applies, training must not be approved in the following scenarios:

- When, after considering all costs, training better or substantially similar in quality, content, and results can be obtained from another provider at a lower total cost within a similar time frame;
- When the costs of the training are unreasonably high in comparison with the average costs of training other workers in similar occupations at other providers; or
- When training at facilities outside the worker's commuting area requires transportation or subsistence payments that add substantially to the total cost of the training program and other appropriate training is available in the commuting area at a lower cost.

Exception: Training may be approved at a higher cost if that training is reasonably expected to result in a higher likelihood of employment, employment retention, or greater earnings, or to return the worker to employment in a significantly shorter duration.

South Carolina limits the amount of training costs considered reasonable and appropriate to \$50,000 for total costs of training (including transportation, books, uniforms, tools, testing fees, etc.). Training costs that exceed this limit may be approved when a training program that exceeds the cost limit will provide the most reasonable way of returning a particular trade-affected worker to employment at higher wages, or on a pathway to do so, than in the absence of training.

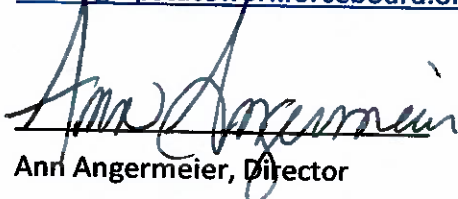
Eligible Training Provider List (ETPL) and TAA

The ETPL is compiled to provide WIOA participants with a full array of training programs designed to meet their needs for job readiness or a career pathway, and to provide participants the information needed to make an informed customer choice concerning training providers and programs. WIOA requires states to establish, maintain, and disseminate an ETPL, including procedures to determine

eligibility for a variety of quality training providers and training programs. Only approved eligible training providers and programs listed on South Carolina's ETPL can be utilized for WIOA Individual Training Accounts (ITA). While the TAA program does not require TAA participants to choose a training provider from the ETPL, TAA participants are encouraged to choose training programs from the ETPL as these programs have been vetted in order to be included on the list and are thus more likely to provide quality training program options from which participants may choose. South Carolina's ETPL can be found at www.scpath.org.

ACTION: Ensure that all appropriate staff receive and understand the policy

INQUIRIES: Questions may be directed to Dana Wood
wood@upstateworkforceboard.org. or 864-596-2028 TTY: 711.



Ann Angermeier, Director

Source: State Instruction 20-07. Replaces Local Instruction 15-01.

TAA Training Justification and Recommendation Form

Participant Name:

State ID:

Petition

#:

TAA Workforce Consultant Name:

Workforce Consultant Phone

To ensure compliance with TAA federal regulations and efficient use of TAA funding, submit the following documents with the Training Information packet.

- _____ 1. Training Justification and Recommendation Form - Completed
- _____ 2. Training Information Packet – Completed
- _____ 3. Online Training Requirements Form, if applicable.
- _____ 4. Printout of Labor Market Information
- _____ 5. Participant Resume or job and education history
- _____ 6. Copy of training curriculum
- _____ 7. Request to Add/Edit TAA Service Provider Form (may require W-9 submission)

Section 1 – Training Information

Please list the name of the training provider, location, and training program requested.

If this is a private training provider, please explain why this provider was chosen over a technical college/ public university.

Is the participant currently enrolled in a training program that is:

- Sponsored by the TAA-affected employer? Yes ☐ No ☐
- Paid for out-of-pocket? Yes ☐ No ☐
- Paid for by a partner program? Yes ☐ No ☐

If either is answered yes, is this the same training program TAA is being asked to sponsor? Yes ☐ No ☐

If the participant is currently in training funded by a partner, provide partner and training program information.

Total Training Costs to be covered by TAA
(including tuition, books, tools, uniforms,
equipment, immunizations, etc.)

Total Transportation Costs to
be covered by TAA

Is this program currently on the Eligible Training Provider List (ETPL)? If "No", please include *Request to Add/Edit Service Provider* form and W-9.

Yes ☐ No ☐

Section 2 – Training Criteria

1. **Suitable employment is not available to the worker.** Suitable employment is defined as a job in the participant's commuting area or area to which he/she plans to relocate, for which he/she needs a similar or higher skill level, and in which he/she earns at least 80% of the wages of the Trade-impacted employment.

2. **The worker would benefit from this training.** The training matches the participant's need for occupational and/or remedial training. This means that there is a direct relationship between the needs of the participant for skills training or remedial education and what would be provided by the training program under consideration for the participant, and that the participant has the mental and physical capabilities to undertake, make satisfactory progress, and complete the training. The participant must also be job ready and marketable upon satisfactory completion of training.

3. **There is reasonable expectation of employment following completion of this training.** The best possible labor market projections must be included in designing a training program for the participant.

4. **Training is reasonably available to the worker.** Training is readily accessible, physically and financially. Training does not require waiting periods or include extended training breaks.

5. **The worker is qualified to undertake and complete the training.** Training must match the participant's personal qualifications (WorkKeys, TABE, etc.), educational background, and work experience. Participants must have the financial resources to sustain themselves throughout the training, and must be able to complete the training within the program time limitations.

6. **Training is available at a reasonable cost.** Training must be available at a reasonable cost when compared to other providers and/or similar training programs. All costs must be considered: tuition, fees, books, tools, transportation, required extracurricular activities (clubs, field trips, etc.), license fees etc.

TAA Workforce Consultant:

Date:

Recommendation: ☐ Approval

☐ Denial

TAA Coordinator:

Date:

☐ Approved

☐ Denied

☐ Needs further research

☐ Final

Action (to be) taken and/or additional comments:

Rev. 3/2020



SC WORKS

BRINGING EMPLOYERS
AND JOB SEEKERS TOGETHER

Trade Adjustment Assistance Job Search Tracking Form

Participant Name: _____

State ID: _____

	Date	Name of Business	Position Applied For	Method of Application (Online, SC Works, In- Person, Etc)	Results (Interview, Phone Call, Etc)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					

**Jobs applied for must be attainable with current skills/education*

***Print and attach the complete/detailed job postings of all jobs applied for*



4/21