

TEXAS WORKFORCE COMMISSION
Workforce Development Letter

ID/No:	WD 16-21, Change 1
Date:	March 18, 2024
Keyword:	TAA; UI; WIOA; WorkInTexas.com
Effective:	WF CMS Implementation

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Courtney Arbour, Director, Workforce Development Division

Subject: **Trade Adjustment Assistance Reversion 2021—Update**

PURPOSE:

The purpose of this WD Letter is to provide Local Workforce Development Boards (Boards) with information and guidance on Reversion 2021 of the Trade Adjustment Assistance (TAA) program of 2015, including the following:

- Group eligibility
- Coenrollment
- Trade Readjustment Allowances (TRA)
- Training
- Employment and case management services
- Alternative Trade Adjustment Assistance (ATAA)

This update provides clarification relating to the implementation of WorkInTexas.com as the Texas Workforce Commission's (TWC) workforce case management system.

RESCISSIONS:

WD Letter 16-21

BACKGROUND:

TAA is a federal entitlement program established by the Trade Act of 1974 (Trade Act) to assist workers adversely impacted by foreign trade. Workers who have lost their jobs because of their company's decline in production or sales due to increased imports or the outsourcing of jobs to foreign countries are potentially eligible for Trade services and benefits.

On July 1, 2021, TAA reverted to a modified version of Section 406 of the Trade Adjustment Assistance Reauthorization Act (TAARA) of 2015. The program reversion is required by the reversion provisions of TAARA 2015. Reversion provisions were first added to TAA-authorizing legislation in 2009 under the American Recovery and

Reinvestment Act. Since then, the TAA program has undergone reversion in 2011 and 2014. Under Reversion 2021, TAA will offer benefits and services similar to those of the 2002 program, with some exceptions. Absent new legislation, the Reversion 2021 program will remain in effect until June 30, 2022.

TAA regulations, codified at 20 CFR Part 618, apply under Reversion 2021 except in cases where unless Training and Employment Guidance Letter (TEGL) No. 24-20, issued June 4, 2021, and titled “Operating Instructions for Implementing the Reversion Provisions of the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Reauthorization Act of 2015,” directs otherwise.

TAA program benefits and services are governed by the Trade Act in effect at the time the certified petition was initially filed, as detailed in the following table.

Petition Series	Applicable Trade Act Amendment	Guidance/Regulation
TA-W-69,999 and below	TAARA (2002 Amendments)	TEGL No. 11-02 and Changes 1, 2, and 3; TEGL 24-20
TA-W-70,000 through TA-W-79,999	TGAAA (2009 Amendments)	TEGL No. 22-08 and Change 1
TA-W-80,000 through TA-W-80,999	TAARA (2002 Amendments, under Sunset provisions of TGAAA) or TAAEA (2011 Amendments), based on onetime selection under TAAEA onetime worker “choice” provision	TEGL No. 11-02 and Changes 1, 2, and 3; 20 CFR 618
TA-W-81,000 through TA-W-84,999	TAAEA (2011 Amendments)	20 CFR 618
TA-W-85,000 through TA-W-97,999	TAARA (2015 Amendments)	20 CFR 618
TA-W-98,000 and above	Reversion 2021	20 CFR 618; TEGL No. 24-20

PROCEDURES:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

Group Eligibility

NLF: Boards must be aware that petitions filed with the US Department of Labor (DOL) after July 1, 2021, will be assigned a petition number of 98,000 or above.

NLF: Boards must be aware of the following statutory provisions for serving workers under Reversion 2021:

- Reversion 2021 covers only the manufacturing sector, and the trade consideration must originate in a country with which the United States has a free trade agreement.
- Certification under Reversion 2021 limits workers’ group eligibility to workers who have been totally separated or partially separated from trade-affected employment; therefore, adversely affected incumbent workers are not eligible for services.

Coenrollment

NLF: Boards must be aware that the requirement to coenroll trade-affected workers in the WIOA Dislocated Worker program remains in effect, and Workforce Solutions Office staff must follow the requirements set forth in WD Letter 18-21, Change 1, issued March 18, 2024, and titled “Coenrollment in the Trade Adjustment Assistance and Workforce Innovation and Opportunity Act Dislocated Worker Programs—Update.”

Trade Readjustment Allowances

NLF: Boards must be aware that the maximum number of weeks for which a trade-affected worker may be eligible for TRA is 130 weeks.

NLF: Boards must be aware that Reversion 2021 eliminates the option to file for TRA or Unemployment Insurance (UI) in a subsequent benefit period. All TRA (basic, additional, and completion) requires that the trade-affected worker exhaust all entitlements to UI benefits.

NLF: Boards must be aware that to be eligible for additional TRA, the trade-affected worker must file a bona fide application for TAA training within 210 days of separation or certification, whichever is later. If the trade-affected worker does not file a bona fide application within the approved time frame, the worker will be ineligible for additional and completion TRA.

NLF: Boards must be aware that Reversion 2021 eliminates the following:

- State and federal “good cause” provisions
- The special rule for military service
- The special rule for judicial or administrative appeal
- Justifiable cause to extend the TRA benefit period

NLF: Boards must be aware that Reversion 2021 reinstates the requirement that the first week of TRA eligibility is one that begins more than 60 days after the date when the petition covering the trade-affected worker was filed.

NLF: Boards must be aware that Reversion 2021 does not contain the “earnings disregard” provision. Therefore, any wages earned by trade-affected workers in part-time training will likely negatively affect their TRA benefits.

Training

NLF: Boards must be aware that trade-affected workers may attend full- or part-time training.

NLF: Boards must be aware that Reversion 2021 reinstates the 2002 Trade Act’s 8/16 rule, which states that, to qualify for TRA benefits, a worker must be enrolled in training or secure a waiver of the training requirement by the later of the following two dates:

- Eight weeks from the date of petition certification
- 16 weeks from the date of the worker’s full or partial separation from trade-affected employment

The 8/16 rule applies to eligibility for all TRA benefits (basic, additional, and completion). If the 8/16 rule is not met, the worker permanently loses access to all TRA benefits.

NLF: Boards must ensure that Workforce Solutions Office staff members:

- advise workers of the waiver/in-training deadline date at the time of application for TAA benefits and services;
- consider the issuance of a training waiver at appropriate junctures in service provision; and
- fully document this information in WorkInTexas.com Case Notes.

NLF: Boards must be aware of the following:

- Work-based training experiences, such as apprenticeships, on-the-job training, and customized training, offer training options for establishing a career pathway and rapidly returning trade-affected workers to employment.
- Under Reversion 2021, work-based learning is the preferred method of training.
- Workforce Solutions Office staff members must ensure that there are no work-based learning options available for the selected occupation and must document that work-based learning was not available in the WorkInTexas.com Case Notes before approving non–work-based training options.

Employment and Case Management Services

NLF: Boards must ensure that Workforce Solutions Office staff provides trade-affected workers an initial assessment to determine which TAA program benefits and services will best help the worker become reemployed.

NLF: Boards must be aware that under Reversion 2021, TAA case management funds may not be used to provide employment and case management services for trade-affected workers certified under a petition filed on or after July 1, 2021.

LF: It is recommended that funding from partner programs (for example, Wagner-Peyser or WIOA Dislocated Worker) be sought to provide trade-affected workers comprehensive and specialized assessments and case management services that best meet the workers’ needs.

Alternative Trade Adjustment Assistance

NLF: Boards must be aware that Reversion 2021 eliminates Reemployment Trade Adjustment Assistance and reinstates ATAA. Under Reversion 2021, the following ATAA requirements must be met:

- Workers must be age 50 or older at the time of reemployment.
- Workers must return to reemployment within 26 weeks of separating from the trade-certified employer.
- Workers must be reemployed as full-time workers.
- Workers must choose between ATAA and other TAA services.
- Employment that qualifies for ATAA must not pay more than \$50,000 annually.
- The maximum benefit amount is \$10,000, paid over no more than two years.

NLF: Boards must be aware that, under Reversion 2021, ATAA recipients are eligible for relocation allowances and the Health Coverage Tax Credit only. The receipt of ATAA prohibits eligibility for other benefits.

NLF: Boards must be aware that Reversion 2021 reinstates the 2002 Trade Act requirement for a separate determination to make ATAA services available to workers. The DOL determination is based on:

- whether there are a significant number of workers age 50 and older in the company;
- whether workers' skills are easily transferable; and
- the competitive conditions within the workers' industry.

INQUIRIES:

Send inquiries regarding this WD Letter to wfpolicy.clarifications@twc.texas.gov.

ATTACHMENTS:

Attachment 1: Revisions to WD Letter 16-21 Shown in Track Changes

REFERENCES:

20 CFR Part 618, Trade Adjustment Assistance Under the Trade Act of 1974, as Amended

Training and Employment Guidance Letter No. 24-20, issued June 4, 2021, and titled "Operating Instructions for Implementing the Reversion Provisions of the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Reauthorization Act of 2015"

Training and Employment Notice No. 01-21, issued July 1, 2021, and titled "Frequently Asked Questions Relating to Trade Adjustment Assistance Program Reversion 2021"

WD Letter 18-21, Change 1, issued March 18, 2024, and titled "Coenrollment in the Trade Adjustment Assistance and Workforce Innovation and Opportunity Act Dislocated Worker Programs—Update"