

TAA Community - CHAT TRANSCRIPT

Title	TAA Final Rule: Suitable Employment - Scheduled Chat
Date	11/18/2020
Start Time	01:00 PM GMT-05:00
End Time	02:01 PM GMT-05:00
Moderator	Theberge, Timothy

Theberge, Timothy- 1:01 PM:

We'll wait another minute or two to let everyone join.

Theberge, Timothy- 1:02 PM:

As a reminder, this is a chat-only event, there is no audio.

Theberge, Timothy- 1:04 PM:

Welcome to our 6th scheduled chat! The purpose of this forum is to provide an opportunity to share with your peers on challenges and solutions in the effective operation of the TAA Program. Today's topic is suitable employment as defined under the TAA regulations at 618.110 and its application throughout the Final Rule.

Theberge, Timothy- 1:04 PM:

A couple of ground rules to support multiple conversations occurring at the same time. If you're responding directly to individual comments or questions, please reference the person in question by using an @ sign and then their first name.

Theberge, Timothy- 1:04 PM:

So, for example, if Beth from MA wanted to ask about states or locals are redesigning their customer flow, it would be helpful if she started off like this:

Customer flow – [Question or statement goes here.]

Then you can reply to Beth like this:

@Beth - [Answer or follow-up goes here]

Theberge, Timothy- 1:05 PM:

That allows for an easier review of the transcript and to try to keep the conversations together as we go along.

Theberge, Timothy- 1:05 PM:

As a reminder, we will be issuing a transcript of this chat to all registered participants. The contents of this chat should be considered technical assistance and not official guidance of the Department.

Theberge, Timothy- 1:05 PM:

There are two key references for this topic, the Final Rule (with the Preamble), and TEGL 03-20

Theberge, Timothy- 1:05 PM:

Final Rule: <https://www.govinfo.gov/content/pkg/FR-2020-08-21/pdf/2020-13802.pdf>

TEGL 03-20 Determining the Availability of Suitable Employment Under the Trade Adjustment Assistance (TAA) Program's Final Rule to Return Trade-Affected Workers to Employment as Quickly as Possible
https://wdr.doleta.gov/directives/attach/TEGL/TEGL_03-20.pdf

Theberge, Timothy- 1:06 PM:

And with that - off we go.

Theberge, Timothy- 1:07 PM:

Here's the new definition from the Final Rule

Theberge, Timothy- 1:07 PM:

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 80percent of the worker's average weekly wage. Part-time, temporary, short-term, or threatened employment is not suitable employment.

Theberge, Timothy- 1:08 PM:

Not also, that the Final Rule replaces the "suitable work" standard in Job Search and Relocation with this definition as well

Theberge, Timothy- 1:08 PM:

What questions, or operational concerns do you have around the new definition?

Carter, Michael- 1:10 PM:

What tool are we to use to determine is the work is "substantially equal or higher skill level than the worker's past"? Objectively, that is.

Nance, Alisa- 1:11 PM:

Skill Level - How do you best support if new employment is equal to or higher than the trade-affected job skill level?

Theberge, Timothy- 1:11 PM:

@Michael - ONET Online! Ideally, that's the first place you should go. It should be part of the assessment to look at what the KSAs were in their adversely affected employment.

Theberge, Timothy- 1:12 PM:

ONET will provide a "Job Zone" for nearly every occupation. That's the best starting point to explore skill level.

Theberge, Timothy- 1:12 PM:

There may be other tools out there - but if there are - I'm not familiar with them.

Carter, Michael- 1:13 PM:

Well, that's we've been doing. So...all good here!

Theberge, Timothy- 1:13 PM:

Nearly all commercially available product actually uses the underlying ONET data and repackages it for sale.

Pratt, Melissa- 1:13 PM:

What if it can't be found in ONET? A worker recently indicated that he wants to get a degree in aerospace business (or something similar) and my local area counselor couldn't find it or anything similar.

Theberge, Timothy- 1:14 PM:

@Melissa - Fascinating. So, I would start with what the job duties entail and what the degree level is (AS, BS, MS) and go from there.

Grant, Kelli- 1:14 PM:

ok, I'll go...and this may be a little off topic of 'suitable employment' however, I am going to throw it out there anyway....suitable employment and work based learning. Does anyone have any advice on how to kick OJT or Apprenticeship and to keep it on topic, how to determine that suitable employment is available if there is an extremely viable work-based learning opportunity available? sorry that's long and kinda curvy of a question, but everyone is so quiet.....

Pratt, Melissa- 1:15 PM:

@ Tim, that's what I thought. I suggested getting job titles from the job postings. He wanted an AS or BS in aerospace business. He previously worked at Boeing and wanted to stay in that general field.

Smith, Stacie- 1:16 PM:

@Tim - With the 80% of the layoff wage, if the AAW relocates and cost of living is significantly different, either higher or lower, in their new location. Are we able to take that into account? In some areas the same jobs just don't pay the same as other areas.

Theberge, Timothy- 1:16 PM:

@Stacie - For training? No. Cost of living does not factor in. For job search and relocation allowances, you can use the 75th percentile of the national wage.

Nance, Alisa- 1:17 PM:

Initial Assessment & Suitable Employment case note - There is much information to include in the Initial Assessment and suitable employment case note(s). Could DOL provide examples or case note outlines to make sure reps include everything?

Carter, Michael- 1:17 PM:

How exactly do we determine "NO" suitable employment is available? What constitutes "NO" as opposed to "a few" or "some"?

Smith, Stacie- 1:18 PM:

@ Tim - When deciding if a training program will lead to suitable employment.

Wright, Robin- 1:18 PM:

I will jump in. I was a bit concerned over the TEGl guidance with regard to the work search. I read it to say that we were not doing enough job search with the participants. This concerned me on several

levels. We know TAA is a work first program and we always conduct work searches. However I am concerned over time limits for benefits. The worker request training close to the timely deadline, but a more in-depth job search must be conducted. There is nothing in the TEGl that identifies how long we should be conducting a work search. Also, it appears to take the choice of training away from the worker. Am I miss interpreting the TEGl?

Theberge, Timothy- 1:18 PM:

@Alisa - In general, we tend not to provide forms or standards - in short, the assessment should answer the 6 criteria on training approval and whether training is appropriate. It doesn't need to be a massive entry, but it should tell the story of why the particular course of service or training was determined appropriate.

Garza, Janice- 1:19 PM:

Program integration- How are TAA and DW programs ensuring that reemployment and suitable employment are consistent, my concern is the time after a petition is filed but before a certification is issued.

Theberge, Timothy- 1:20 PM:

@Robin - States should be working with workers from (ideally) before layoff or shortly thereafter. You should be working with them to find employment while the petition is still pending. At the point the certification comes around, states must determine whether there is suitable employment available to the worker. If not, training can be approved at that time.

Theberge, Timothy- 1:21 PM:

@Michael - "Few" or "some" is not "no." If there is a job which is suitable employment, the worker must seek that employment before training can be approved,

Strong, Felicia- 1:22 PM:

When a participant is dual enrolled in TAA and a DW program how can we ensure that that the TAA participant returns for job search assistance with the DW program? Does/is the TAA program responsible for helping with employment after training?

Theberge, Timothy- 1:22 PM:

@Janice - Until the certification is issued, they would not be subject to suitable employment. If on UI, they would be more likely subject to suitable work.

Wright, Robin- 1:23 PM:

@Tim, Thanks! We do work with all employees while employed and after layoff, but there are always stragglers. Those are the ones that concerned me the most. I appreciate the answer!

Carter, Michael- 1:23 PM:

@Tim. OK. He's applied to it and hasn't received a response. When does that become "NO"?

Theberge, Timothy- 1:23 PM:

@Felicia - The TAA Program is absolutely responsible, as are the other partners, for helping the worker find employment. Counselors should be working with the participant as their training is coming to an end to start seeking employment. Once employed, follow-up would become the responsibility of ES or WIOA since TAA cannot fund follow-up.

Theberge, Timothy- 1:24 PM:

@Janice - Additionally, although we cannot mandate it, DW should also be looking at a suitable employment standard. We also happen to think that DW should use the same 6 criteria for training approval, but we might be bias.

Nance, Alisa- 1:25 PM:

Suitable Employment & Training Employment Goal - Suitable employment is still just a goal for training-related, long-term employment, right?

Theberge, Timothy- 1:25 PM:

@Michael - I don't have a hard and fast answer. A week? Maybe 2? Tops. At that point, the state would be reasonable in saying that the employment is not available. I can't give you a hard answer on that.

Strong, Felicia- 1:25 PM:

Thank you for that explanation. In my experience working with TAA clients that are dual enrolled in WIOA, the TAA counselor will make a referral to myself for the participant. If the participant does not contact me or I am unable to reach them myself, the TAA counselor doesn't have further information to provide or contact with the client after. How should this be working?

Theberge, Timothy- 1:26 PM:

@Alisa - Yes. Suitable employment is the goal - except for OJT where it is required.

Theberge, Timothy- 1:27 PM:

@Felicia - There are different models on that. Ideally, workers shouldn't be handed off from counselor to counselor. That's why we removed the merit staffing restriction and mandate co-enrollment. There is really no need to have "WIOA counselors" and "TAA counselors"

Theberge, Timothy- 1:28 PM:

@Felicia - I would suggest a conversation with your Regional Office as there are very successful integrated services models out there. You should also not miss our webinar on Monday 11/23

Garza, Janice- 1:28 PM:

@Tim. Is there anything that would prevent TAA program policy and WIOA Title I DW program policy from addressing this on a state level?

Strong, Felicia- 1:28 PM:

@Tim, thank you

Theberge, Timothy- 1:29 PM:

@Janice - No. Vermont, at one point in time, applied nearly all the TAA provisions to the DW program to ensure the highest integration possible. Nothing prohibits that now.

Theberge, Timothy- 1:30 PM:

They established a policy that training under DW had to meet the 6 criteria under Trade

Nance, Alisa- 1:30 PM:

Turning down Suitable Employment Interviews - If a client turns down an interview for a job that is clearly suitable employment and the job details match what the client is looking for, has the skills, in commuting distance, shift, etc., is this a reason to deny training?

Garza, Janice- 1:30 PM:

@Tim- thank you!

Theberge, Timothy- 1:30 PM:

@Alisa - Yes. In writing, stating why. Then they can decide whether to appeal.

Theberge, Timothy- 1:31 PM:

@Kelli - We're not quite sure we follow your question on OJT and suitable employment. Can you try to add some more to that?

Nance, Alisa- 1:31 PM:

@Tim, Thanks for answering all my questions clearly!

Theberge, Timothy- 1:35 PM:

ONET Online - <https://www.onetonline.org>

Theberge, Timothy- 1:37 PM:

I want to make sure I address the issue of "customer choice" that often comes up in our programs. Yes, there is customer choice, but, it is always customer choice within a demand-driven environment and from a perspective of reasonable cost.

Easter, Jody- 1:38 PM:

How long should they job search before you determine there is no suitable employment?

Waters, Jhansi- 1:39 PM:

Is there a certain number of job searches states will require/suggest of their participants before discussing training options - per week?

Theberge, Timothy- 1:39 PM:

@Jody / @Jhansi - Before or after certification because there is a difference.

Waters, Jhansi- 1:39 PM:

After

Easter, Jody- 1:39 PM:

@Timothy- After

Moore, Roger- 1:40 PM:

@tim before

Carter, Michael- 1:40 PM:

What's the difference?

Theberge, Timothy- 1:40 PM:

@Roger - That's a UI question and subject to applicable state law.

Moore, Roger- 1:40 PM:

thanx tim

Theberge, Timothy- 1:41 PM:

After certification, TAA does not provide an explicit duration - however, the regulations are fairly clear that the determination is made at the point the worker applies for training.

Theberge, Timothy- 1:42 PM:

The worker and their counselor would do a survey of available jobs. If there is no suitable employment, training can be approved. If there is suitable employment, training cannot be approved until the worker attempts to obtain that employment. (See previous question from Michael).

Stankiewicz, Frances- 1:42 PM:

@ Tim -in the state of CT work search efforts are waived during COVID. Now what? Rely very heavily on LMI data I would imagine.

Reichert, Janet- 1:43 PM:

@Tim. Still a little fuzzy on the time frame for job search prior to training. We've had customers job search for a week and say that they cannot find work.

Theberge, Timothy- 1:43 PM:

@Frances - You still need to look at open positions. If none of the postings are suitable, training can be approved.

Reichert, Janet- 1:43 PM:

@Tim-should the states adopt the 'waive' work search during COVID?

Theberge, Timothy- 1:44 PM:

@Janet - You will not find a firm definition on that. Remember, for many folks under TAA, they have already been unsuccessful finding work while receiving UI. All those weeks of job searching would also "count."

Reichert, Janet- 1:44 PM:

@Tim. Thanks

Theberge, Timothy- 1:44 PM:

@Janet - That's a UI question. For Trade, the requirement isn't a "work search," it's that no suitable employment is available.

Theberge, Timothy- 1:46 PM:

In the current state of the economy, I would put more weight on actual, real-time LMI (current job postings, vacancy surveys, etc.) than I would on LMI projections.

Theberge, Timothy- 1:47 PM:

How long have they already been unemployed and seeking employment

Theberge, Timothy- 1:47 PM:

Those are very real things to use rather than only short term or long term projections.

Carter, Michael- 1:49 PM:

The idea behind waive the job search is, at least partially, these folks are "job connected". TAA folks

aren't. They qualified because the job isn't going to be there anymore. Therefore, they should be looking for work regardless if the search is required or not.

Waters, Jhansi- 1:49 PM:

@Tim When will this transcript be made available?

Garza, Janice- 1:49 PM:

Assessments- Does anyone have a list or side by side comparison of TAA assessment requirements and DW assessment requirements to easily identify what TAA will have to supplement once a certification is issued?

Theberge, Timothy- 1:49 PM:

@Jhansi - Ideally? Tomorrow. The last one took a week due to a server issue.

Waters, Jhansi- 1:50 PM:

@Tim Great thank you. @Janice - good question

Sanders, krystal- 1:50 PM:

@Tim In the current COVID environment should we take into consideration a customers' safety concerns in no accepting suitable employment

Theberge, Timothy- 1:51 PM:

@Krystal - Totally going to refer you to the lawyers and OSHA on that one.

Reichert, Janet- 1:51 PM:

ugh

Theberge, Timothy- 1:51 PM:

There are various guidance documents already issued by ETA and OSHA that cover that issue.

Sanders, krystal- 1:52 PM:

@Tim okay thanks

Theberge, Timothy- 1:52 PM:

You have to weave those together to get the answer.

Theberge, Timothy- 1:53 PM:

@Janice - The 6 criteria for Trade, would meet the requirements for WIOA DW training approval, but not vice versa.

Garza, Janice- 1:55 PM:

@Krystal- OSHA is really cracking down on employers and COVID.

<https://www.dol.gov/newsroom/releases/osha/osha20201106>

Reichert, Janet- 1:57 PM:

@Janice. Good info. Thanks

Theberge, Timothy- 1:57 PM:

Ok - We're up against the hour. Thank you all for joining us. We hope these chats are helpful. They

provide us some great insight to what issues you are dealing with and what topics you need to hear from us and your peers on.

Theberge, Timothy- 1:57 PM:

Our next event is a webinar – Integrated Services (including Co-Enrollment) – on Monday, November 23th. There is no scheduled chat next week.

Garza, Janice- 1:57 PM:

@Tim, that helps, I wish there were a 1 pager on this

Theberge, Timothy- 1:57 PM:

@Janice - But then you wouldn't need these chats!

Sanders, krystal- 1:57 PM:

@Tim thanks

Theberge, Timothy- 1:58 PM:

And, as always, make sure to check out the resources and other items available at

<https://taa.workforcegps.org>

Theberge, Timothy- 1:59 PM:

The transcript of this session will be made available in the next day or two. It is transmitted to the ETA Regional Offices and the state trade coordinators since GPS does not provide us a list of your email addresses.

Heng, Kim- 1:59 PM:

Does the suitable employment as a goal for the apprenticeship training? Or it is a requirement as OJT?

Theberge, Timothy- 2:00 PM:

@Kim - Requirement for OJT. Goal for everything else.