

Mass Workforce Issuance

100 DCS 13.108

☒ **Policy** ☐ **Information**

To: Chief Elected Officials
Local Workforce Development Board Chairs
Local Workforce Development Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Operations Managers

cc: WIOA State Partners

From: Alice Sweeney, Director
Department of Career Services

Robert Cunningham, Director
Department of Unemployment Assistance

Date: February 2, 2017

Subject: **Disqualification(s) under the Trade Program**

Purpose: This policy is being amended to ensure alliance, where allowable and applicable, with the enactment of the Workforce Innovation and Opportunity Act (WIOA). To provide Local Workforce Boards, One-Stop Career Center Operators and local workforce partners with updated policy guidance related to the disqualification of Trade customers from the receipt of Trade Readjustment Allowances due to withdrawal from, failure to begin or the failure to attend Trade approved training as scheduled. A staff guide providing more detailed procedural instructions is attached (Attachment A).

Background: The Trade Adjustment Assistance Program for workers was first established by the Trade Act of 1974 and has been amended numerous times. It was first amended by the TAA Reform Act of 2002; then by the Trade and Globalization Adjustment Assistance Act of 2009 and further amended by the Trade Adjustment Assistance Extension Act of 2011. On January 1, 2014 the Sunset Provisions of the Trade Adjustment Assistance Extension Act of 2011 program became effective and are referred to as "Reversion 2014". The Trade Adjustment

Assistance Reauthorization Act of 2015 (TAARA 2015) was signed into law by President Barack Obama on June 29, 2015. TAARA 2015 repeals the sunset provision of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), under which the Reversion 2014 Program was in effect since January 1, 2014.

In conjunction with the Trade Adjustment Assistance Act of 1974, as Amended, a customer determined eligible for Trade services and benefits is generally entitled to training services if he/she meets six (6) criteria as delineated at 20CFR 617.22(a)(1-6):

- there is no suitable employment available for the adversely affected worker,
- the worker would benefit from the training program,
- there is a reasonable expectation of employment following completion of the training program,
- the training is reasonably available to the worker,
- the worker is qualified to undertake and complete the training, and
- the training program is suitable for the worker and available at a reasonable cost.

Additionally, Section 617.19 allows for the payment of Trade Readjustment Allowances (TRA) to an eligible customer if he/she is enrolled or participating in an approved training program as described in Section 617.22(a). TRA benefits may be paid to a customer who is not enrolled or participating in an approved training program *only* if the individual has been granted a waiver of the training requirement based on a determination that it is *not feasible* or is *not appropriate* to approve training for the otherwise eligible customer. Please refer to Issuance 13.108 for a list of applicable Waivers from Training.

The Trade Regulations promulgated at 20 CFR Section 617.18 (2) provides that an otherwise eligible Trade customer may be “disqualified” from the receipt of TRA if he/she does not attend scheduled training:

“(i) An individual who, without justifiable cause, fails to begin participation in a training program which is approved under §617.22(a), or ceases to participate in such training, or for whom a waiver is revoked pursuant to §617.19(c), shall not be eligible for basic TRA, or any other payment under this part 617, for the week in which such failure, cessation, or revocation occurred, or any week succeeding week thereafter until the week in which the individual begins or resumes participation in a training program that is approved under §617.22(a).”

Policy:

Local Workforce Development Boards, One-Stop Career Center Operators and other local workforce partners must assure that local policies and procedures are consistent with the content of this policy issuance. Furthermore, Local Boards, Operators and partners must assure that staff is knowledgeable of the regulatory requirements pertaining to the training eligibility/disqualification parameters applicable to Trade eligible customers.

Additionally, consistent with the content of this issuance, Local Boards, Operators and partners must ensure that procedures are in place or are implemented to assure that case managers (or other designated staff) review with all Trade eligible customers approved for training services the potential sanctions and/or repercussions that may result should the customer decide to not start, withdraw from, or change his/her approved training program. The procedures must also assure that case managers (or designated staff) also instruct Trade eligible customers approved for training to inform the case manager *in advance*, of any desire or decision to not start, withdraw from, or to change an approved training program so as to fully understand any potential repercussions of taking such action.

Please assure that all appropriate staff is knowledgeable of the content of this Policy Issuance and that they carry out related TAA activity in a compliant manner.

Effective: Immediately

References:

- Trade Adjustment Assistance Act of 1974, as amended
- Trade Reform Act of 2002
- The Trade and Globalization Adjustment Assistance Act of 2009
- Trade Regulations, 20 CFR Part 617
- TEGL 11-02, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002, issued October 10, 2002 and subsequent changes
- TEGL 22-08, Operating Instructions For Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009, issued on May 15, 2009 and subsequent changes
- TEGL 10-11, Operating Instructions for Implementing the Trade Adjustment Assistance Extension Act of 2011 (TAAEA)
- TEGL 05-15 Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015)

Inquiries: Please email all questions to PolicyQA@MassMail.State.MA.US. Also, indicate Issuance number and description.

Attachment: A: Staff Guide
B: Hearings Form