

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION TAA/NAFTA-TAA/TRNG. & TRANSP.
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 5-01

TO : ALL STATE WORKFORCE LIAISONS
 ALL STATE WORKFORCE AGENCIES
 ALL STATE WORKER ADJUSTMENT LIAISONS
 ALL ONE-STOP CENTER SYSTEM LEADS

/s/

FROM : EMILY STOVER DeROCCO
 Assistant Secretary

SUBJECT : Trade Adjustment Assistance (TAA) and North
 American Free Trade Agreement Transitional
 Adjustment Assistance (NAFTA-TAA) Programs:
 Reasonable Costs of Training and Transportation
 Payments

1. **Purpose.** To clarify the federal regulations governing transportation payments under the TAA and NAFTA-TAA programs.
2. **References.** The Trade Act of 1974, as amended (the Trade Act); 20 CFR Part 617.
3. **Background.** A training program for a TAA or NAFTA-TAA program participant must, among other things, be at a reasonable cost (20 CFR 617.22(a)(6)). Where that training program is outside a worker's commuting area, the state agency also must consider the transportation costs in determining whether the costs of the training program are reasonable (20 CFR 617.22(a)(6)(iii)(A)). Transportation payments for an approved training program must be made in accordance with 20 CFR 617.28. This directive will explain how transportation payments are to be calculated as part of a reasonable-cost training program.
4. **Training Available at Reasonable Cost.** The regulations at 20 CFR 617.22(a)(6) require that training be, among other things, at a reasonable cost. Further, approval requires that the training be "at the lowest reasonable cost" (20 CFR

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617.22(b)). In particular, training at a facility outside the worker's normal commuting area, as determined under the state law (20 CFR 617.3(k)), that involves transportation (or subsistence) costs which add substantially to the total costs of training must not be approved if other appropriate training is available at a lower cost within the commuting area. When training, substantially similar in quality, content and results, is offered at more than one training provider, only the lowest cost training may be approved (20 CFR 617.22(a)(6)(iii) (b)). A state must disapprove a training program if the training is in an occupational area which requires an extraordinarily high skill level and for which the total costs of the training are substantially higher than the costs of other training which is suitable for the worker (20 CFR 617.22(b)).

Therefore, computation of a transportation payment is an important part of the determination of whether a particular training program is available at a reasonable cost.

5. Transportation Payments. The regulations at 20 CFR 617.28(b) govern how the amount of a transportation payment is determined. This provision states that a transportation allowance "shall not exceed the lesser of"-

- (1) the actual cost for travel by the least expensive means of transportation reasonably available between the trainee's home and the training facility; or,
- (2) the cost per mile, between the trainee's home and the training facility, at the prevailing mileage rate authorized under the federal travel regulations.

While section 617.28(b), when read alone, could be construed to permit the payment of transportation costs in an amount less than the lesser of the two amounts provided for under paragraphs (b)(1) or (b)(2), when read in conjunction with other relevant provisions of part 617 relating to transportation payments, such a reading is not tenable if the effect would be to have the worker/trainee bear any portion of the cost of the necessary transportation. Section 617.28(a) requires that the trainee shall receive assistance "necessary to pay transportation expenses if the training is outside the commuting area", and section 617.28(c)(3) requires that the transportation payment shall be for "daily commuting" in lieu of subsistence. Further, section 617.25(b)(1) provides that the cost of a training program, which includes any transportation expense, may be paid from public or private funds but such private funds "may not include funds from sources personal to the individual, such as self, relatives, or friends". Additionally, section 617.25(b)(5)(ii) prohibits the approval of a training program if "the worker would be requested or required, at any time or under any circumstances, to pay any of the costs of a training

program, however small, from any TAA funds given to the worker or from any other funds belonging to the worker from any source whatever". Thus, we do not interpret 20 CFR 617.28(b) as requiring only that a transportation payment not exceed the lesser of the two computations. Rather, with the limited exception provided for by section 617.25(b)(1) (relating to the payment of training costs with other public or private (non-worker) funds), the transportation payment must equal the lesser of the two in order to cover the necessary commuting expenses. Further, the computation of a transportation payment must include the entire distance between a claimant's home and the training facility. A State agency may not, for example, limit its calculation only to that distance which exceeds the claimant's commuting area. The transportation payment must cover all miles traveled by the trainee for the most efficient travel route--taking into account both the distance and time of the commute--from the claimant's home to the training site and back.

NOTE: The program regulations do not provide for transportation payments where the training is within the worker's commuting area. The expense of traveling within the commuting area is not a "cost of training" for purposes of the Trade Act.

6. Other Possible Sources of Training and Transportation

Funds. A range of services are available to dislocated workers, including those adversely affected by foreign trade, through the One-Stop Career Center system operated under the Workforce Investment Act (WIA). These may include supportive services such as transportation allowances. As a part of core services available to all dislocated workers through the One-Stop system, all One-Stop operators are required to provide accurate information on the availability of supportive services in the local area. Since WIA is not an entitlement program, local areas have procedures for determining which eligible dislocated workers need additional support to enable them to participate in training. (Regulations regarding supportive services under WIA are found at 20 CFR Part 663.) Workers who are eligible for TAA and/or NAFTA-TAA may also be eligible for supportive services under WIA.

7. Action Required. State agency administrators are requested to:

- a. Inform appropriate staff of this guidance.
- b. Ensure that determinations of transportation payments are made in accordance with this directive.

8. **Inquiries**. Inquiries should be directed to the appropriate Regional Office.