

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TOSINGILO BOLENGA**  
Claimant

**APPEAL 20A-UI-01100-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWAWORKFORCE DEVELOPMENT**

**OC: 12/29/19**  
**Claimant: Appellant (1)**

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19 U.S.C. §§ 2271-2331 – Trade Act of 1974  
20 C.F.R. Part 617 – Trade Adjustment Assistance

**STATEMENT OF THE CASE:**

On February 6, 2020, the claimant filed an appeal from the January 30, 2020, decision that denied Trade Act benefits effective January 23, 2020. The parties were properly notified about the hearing. A telephone hearing was held on February 27, 2020. Claimant participated personally and through witness, Emma Kirk. Iowa Workforce Development (IWD) participated through workforce program coordinator for the TAA program Bill Marquess. IWD's Exhibits 1 through 35 were admitted into the record. Claimant's Exhibits A through D were admitted into the record.

**ISSUE:**

Is claimant eligible to receive classroom training benefits under the Trade Act?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: On August 17, 2017, claimant applied for benefits pursuant to the Trade Act. Claimant sought to obtain a Bachelor of Science degree in computer science at the University of Iowa. Claimant sought to begin classes immediately and planned to complete the degree in May 2020. IWD approved the training plan.

In order to continue receiving Trade Act benefits in good standing, a claimant must maintain a 2.0 grade point average. Claimant was aware of this requirement. The IWD Trade department ordinarily will not allow a claimant to continue receiving benefits after two semesters falling below the 2.0 grade point average requirement.<sup>1</sup>

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<sup>1</sup> Claimant has a Bachelor's degree in general studies and a Master's degree in divinity, both from the New Orleans Baptist Theological Seminary. Claimant was able to transfer credits from that school to the University of Iowa, but the only issue in this case is claimant's academic performance at the University of Iowa.

During the fall 2017 semester, claimant took four classes. Claimant's grade point average (GPA) for the semester was 2.11.

At the end of the semester, claimant requested to amend his training plan to major in computer informatics. Claimant planned to complete the degree in May 2020. IWD approved the amendment.

During the spring 2018 semester, claimant took five classes. Claimant's GPA for the semester was 1.11. After spring semester, claimant was put on academic probation with the University of Iowa. His overall GPA at the University of Iowa was 1.68.

During the spring 2018 semester, claimant took two classes. Claimant's GPA for the semester was 1.48.

During the fall 2018 semester, claimant took seven classes. His GPA for the semester was 2.20.

During the spring 2019 semester, claimant took five classes and earned a 1.09 GPA.

In May 2019, claimant requested to amend his training plan to change majors. Claimant wanted to change to a major that would allow him to complete the degree by May 2020, and he could not do that majoring in computer informatics. Claimant requested to switch to a Bachelor of Arts degree in interdepartmental studies, specifically business studies—technology and inquiry with an informatics minor. IWD approved the amendment.

On August 5, 2019, Bill Marquess sent an email to claimant's Trade Act case manager, Shane Greve. Marquess stated he was concerned that claimant's GPA was still below 2.0 and that he remained on academic probation. Marquess expressed concern about whether claimant had the ability to complete the training.

During the summer 2019 semester, claimant took two classes and earned a 1.67 GPA.

On August 22, 2019, IWD informed claimant that in order to continue receiving Trade Act benefits, he was required to hire a tutor and have a 2.0 GPA at the end of fall semester.

Claimant made his best efforts to employ a tutor, but due to issues within the department at the University, he was unable to hire a tutor.

In the fall 2019 semester, claimant took four classes. By mid-term, claimant was struggling in some classes and had not hired a tutor.

On November 18, 2019, Marquess sent an email to claimant and case manager Greve stating that if claimant was not able to raise his GPA to a point where he could get off academic probation with the University by the end of the semester, benefits would be terminated. Marquess noted it was not the action the Trade department wanted to take, but with three semesters in a row of failing to meet requirements, they would not be able to justify continued funding.

Claimant earned a 1.75 GPA for the fall 2019 semester.

The University of Iowa dismissed claimant from the school as a result of his poor academic performance. Claimant filed an appeal was readmitted to the University on academic probation, as a result of extenuating circumstances.

Claimant's extenuating circumstances included exhausting the Trade Readjustment Allowance weekly benefit payments in November 2019, losing a very close family member in November 2019, and his unsuccessful search for a tutor during the fall semester.

On January 30, 2020, the Trade department of IWD issued a decision denying any additional benefits under the Trade Act. The benefit denial was effective January 23, 2020, but in effect, means claimant's tuition expenses for spring semester will not be paid under the Trade Act. IWD determined claimant was not qualified to complete the training, even when taking into account the extenuating circumstances he presented.

Claimant needs only two more classes to graduate in May 2020. Claimant is enrolled in four classes for the spring 2020 semester, upon the advice of his University of Iowa academic advisor, Emma Kirk. Two of the classes those required for him to graduate. The other two classes are electives, intended to boost claimant's GPA.

Claimant must have an overall GPA of 2.0 with the University in order to graduate at the end of the semester. In order for claimant to reach the mandatory GPA, he will need to earn at least a 3.0 if he takes all four classes and a 3.83 if he takes only the two classes required for his major.

In the past, the Trade department paid for claimant to take nine credit hours of elective classes not needed to graduate.

#### **REASONING AND CONCLUSIONS OF LAW:**

Workers who are laid off for reasons determined to have been related to international trade may qualify for certain benefits under the Trade Act of 1974, as amended in 2002, 2011, and 2015. 19 U.S.C. §§ 2271-2331. The benefits include income benefits paid while attending training ("trade readjustment allowance" or "TRA benefits"), a job search allowance, relocation allowances, and training benefits ("TAA benefits"). See 19 U.S.C. §§ 2291-2294 (TRA benefits); § 2297 (job search allowance); § 2298 (relocation allowance); § 2296 (training).

At issue here is the Trade Adjustment Assistance (TAA) classroom training benefits.

Cooperating state agencies (CSAs), such as Iowa Workforce Development, administer Trade Act benefits on behalf of the United States Department of Labor. There are limitations on what training programs state agencies can approve. In order to be eligible for the classroom training benefits, the claimant must show there is no suitable employment available for him, he would benefit from appropriate training, there is a reasonable expectation of employment following completion of such training, the training is reasonably available, the claimant is qualified to undertake and complete such training, and the training is suitable for claimant and available at a reasonable cost. 19 § U.S.C. 2296(a)(1). Upon approval, the claimant is entitled to have payments of the costs of the training paid on his behalf.

At issue here is whether claimant is qualified to complete the training. 20 C.F.R. § 617.22(a)(5)(i) provides:

**(a) Conditions for approval.** Training shall be approved for an adversely affected worker if the State agency determines that:

**(5) The worker is qualified to undertake and complete such training.**

(i) This emphasizes the worker's personal qualifications to undertake and complete approved training. Evaluation of the worker's personal qualifications must include the worker's physical and mental capabilities, educational background, work experience and financial resources, as adequate to undertake and complete the specific training program being considered.

In this case, claimant has not established he is qualified to complete the training plan given his past academic performance. Claimant needs to earn at least a 3.0 GPA in the four classes he is taking this semester in order to graduate and complete the training plan. Although the claimant may have had extenuating circumstances in the fall 2019 semester, the bigger issue is that claimant has never even been close to obtaining a 3.0 GPA for even one semester at the University of Iowa. For claimant's own sake, the administrative law judge hopes he is successful and earns a 3.0 this semester. Unfortunately, there is no reasonable expectation that claimant will make a sudden change at this point and do so. Therefore, further benefits under the Trade Act must be denied.

**DECISION:**

The January 30, 2020, decision denying claimant TAA classroom training benefits is affirmed. Claimant not is eligible for TAA benefits effective January 23, 2020.



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Christine A. Louis  
Administrative Law Judge  
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March 3, 2020  
Decision Dated and Mailed

cal/scn