

Policy Area: Programs and Services	
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I. Purpose

The purpose of this issuance is to outline the policy and procedures under the Workforce Innovation and Opportunity Act (WIOA) for on-the-job training (OJT) by which a WIOA participant will learn employment related skills through demonstration and practice at an employer's site. This policy also provides basic procedures by which Local Workforce Development Boards (LWDBs) may support Registered Apprenticeship, a form and model of work-based learning which is related to OJT.

II. Summary and Impact

During OJT work-based learning, a participant is engaged in productive work for which they are treated as a regular employee of the employer. Employers and training providers offering OJT opportunities must provide the highest quality training to participants. OJT contracts must be monitored so that WIOA funds are providing on-the-job training that enables participants to successfully retain employment. It is important for OJT to provide participants with relevant skills and opportunities for career advancement, and that a structured OJT program also provides employers with the skilled workforce they need. OJT is proven to have positive outcomes on long term employment and earnings and is a critical tool for helping job seekers enter into successful employment.

WIOA promotes a workforce system that is job-driven. This policy provides the framework and guidance for the state and local workforce development systems to utilize OJT, as a standalone work-based learning activity or in collaboration with other training programs, such as registered apprenticeship or incumbent worker training, in a consistent and effective manner under the parameters set forth in the WIOA.

III. References

- Workforce Innovation and Opportunity Act (Pub. L. 113-128)
- United States Department of Labor, Workforce Innovation and Opportunity Act; Final Rule, 20 CFR, Part 680 Subpart F, Work-Based Training
- Training and Employment Guidance Letter 19-16: Guidance on Services Provided through the Adult and Dislocated Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by Title III of WIOA, and for Implementation of the WIOA Final Rules.

IV. Policy

WIOA defines OJT as skills development provided by an employer to a paid participant while that participant is engaged in productive, paid work in a job that:

- provides knowledge or skills essential to the full and adequate performance of the job;
- is made available through a program that provides reimbursement to the employer of a portion of the wage rate of the participant, for the costs of providing training and additional supervision related to training; and
- is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant.

OJT is provided under a contract with an employer in the public, non-profit, or private sector. Through an OJT contract between the agency, LWDB or its contracted service provider and the employer, occupational training is provided to the WIOA participant by the employer in exchange for partial employee wage reimbursement. An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant and their prior work experience, and the participant's Individual Employment Plan (IEP).

Employers and other training providers of OJT shall not be subject to the requirements of Eligible Training Providers as defined in WIOA Title I.

Strategies for developing new workforce skills in the existing workforce shall be designed to benefit business and industry in ways that encourage and support the integration of new technology and business processes, increase employee productivity, and support the competitiveness of the company. Work-based learning activities, such as OJT, create a number of positive outcomes including:

- improving the alignment of existing workers' skills with new job requirements;
- providing individuals access to new career opportunities within a business;
- encouraging retention of existing personnel who otherwise may become dislocated because of skills deficiencies;
- increasing the wages of newly trained workers;
- creating new opportunities for entry-level workers through the promotion of existing workers; and
- supporting local and regional economic development efforts.

V. Procedures

A. Determination of Employer Eligibility

OJT contracts may be utilized as a viable training option in partnership with employers when the following conditions are met:

1. Employer or registered apprenticeship program sponsor may be a public, non-profit, or private sector employer.

2. Employer is not eligible if, under either the Workforce Investment Act (WIA) or WIOA, the employer has exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages and employment benefits, including health benefits, and working conditions at the same level as other employees working a similar length of time and doing the same type of work.
3. Employer agrees the OJT contract is limited to the period of time needed for a participant to become proficient in the occupation for which the training is provided.
4. Employer will be reimbursed for a portion of the employee's wages throughout the OJT contract period.
5. Employer must provide a Federal Employer Identification number to demonstrate the business is a legitimate employer with full-time employees, and conducting trade or business at an appropriate worksite.
6. Employer must maintain workers' compensation insurance and provide a Certificate of Insurance issued by the company's insurance carrier.

B. Determination of Participant Eligibility

1. OJT participants are WIOA participants who, after objective assessment(s) have a documented plan indicating the participant is in need of, and can benefit from, OJT.
2. Employers may refer to a WIOA program an individual who has applied for employment to the company but is not yet job ready. This is called reverse referral. In reverse referral, an employer may refer a job applicant to a One-Stop Career Center or WIOA program for skills development. The job seeker, so referred, may then be enrolled in an OJT contract with the employer who initially referred the job seeker. To participate in a subsidized OJT program, the referred job seeker must be determined eligible for WIOA services, and have completed an assessment(s) and development of a plan determining OJT to be an appropriate training activity. Reverse referral for OJT can only occur if the employer has not already hired the individual. An OJT participant may also be one who is referred to an employer by a One-Stop Career Center or WIOA program.
3. When a One-Stop Career Center refers an OJT candidate to a business, the employer will assess the participant based on the requirements of the business and will have the opportunity to review the participant's assessment results. The employer will also interview the participant before entering into an OJT contract.

C. OJT Contracts for Employed Workers

While, traditionally, an OJT contract is written to support skills development and employment of a dislocated or unemployed worker, an OJT contract and WIOA Title I funds may also support a worker who is already employed provided that each of the conditions listed below are met:

1. The employee is not earning a self-sufficient wage as determined by LWDB policy.
2. The OJT relates to the introduction of new technologies, new production or service procedures, or a new job that requires additional literacy and numeracy or occupational and technical skills.
3. The OJT is provided through a contract with an employer or registered apprenticeship program sponsor.

D. OJT Contracts for Registered Apprentices

An OJT contract, and reimbursement of a percentage of participant wages, may be entered into with the entity providing the OJT component of a registered apprenticeship program.

Generally, this is the employer of the registered apprentice, but the entity providing the OJT component of a registered apprenticeship may also be a union or an intermediary. Registered apprenticeships consist of two components: OJT and related instruction. Related instruction may be classroom based, online, or a hybrid of the two. OJT contracts only apply and can only be used to fiscally support reimbursement of a percentage of the apprentice's wages to the registered apprenticeship sponsor. However, a WIOA funded Individual Training Account (ITA) may be used to support the related instruction component of a registered apprenticeship. There is no federal prohibition on using both WIOA Title I ITA and OJT funds when supporting a WIOA participant in a registered apprenticeship program. ITA funds can be used to support apprenticeship related instruction, and OJT funds can support a percentage of a participant's wages.

If the WIOA participant is unemployed and begins the registered apprenticeship program as a new hire, OJT employer eligibility provisions apply. If the individual is employed as a registered apprentice at the time of enrollment in WIOA and OJT participation, OJT contracts for employed workers apply.

E. Length of OJT Contracts

The length of OJT contracts using local WIOA Title I formula funds is determined by LWDB policy and must account for the following criteria:

- skill requirements of the occupation;
- academic and occupational skill level of the participant;
- prior work experience; and
- participant's Individual Employment Plan (IEP).

F. Employer Reimbursement Rates

Through the OJT contract, the employer provides occupational skills training for the WIOA participant in exchange for reimbursement to the employer of a percentage of the employee's wages as compensation for the costs of providing training and supervision as well as the potentially lower productivity of the participant while in training. Employers are not required to document direct or indirect costs associated with OJT. The typical employer reimbursement rate for an OJT participant is 50 percent of that participant's wage rate. However, the Governor or the LWDB may increase employer reimbursement to 75 percent of the participant's wage rate after taking into consideration the following factors:

- whether the OJT contract is leading to employment opportunities for individuals with barriers to employment;
- the size of the employer, with an emphasis on serving small business;
- the quality of employer-provided training and advancement opportunities for OJT participants; and
- other factors such as training for in-demand occupations, training resulting in an industry-recognized credential, number of employees the company has participating in OJT, before and after wage and benefit levels of employees, and the predicted impact of OJT on the participant's competitiveness in the workplace.

When applying for WIOA Governor's reserve funds or National Dislocated Worker Grant funds, the Governor will document the above factors when considering requests for reimbursement to employers of above 50 percent of OJT worker wages. When local formula funds apply, the LWDB shall document the factors considered when deciding to

increase the wage reimbursement level of an OJT participant above 50 percent of wage rate.

G. Data and Reporting Requirements

Quarterly on-the-job training reports must be submitted to the WIOA Title I Administrator. The first report is due July 25, 2023, for the April-June 2023 quarter. The WIOA Title I Administrator will provide an annual report to the VBWD at their September meeting. The following data elements will be reported by local workforce development boards and agencies and used to measure the effectiveness of OJT programs funded by WIOA Title I formula funds in the Commonwealth of Virginia.

- Number of participants engaged in OJT including OJT contracts for incumbent workers and registered apprentices.
- Number of companies participating in OJT.
- Number participants still employed six months and twelve months after the end of the OJT.
- The wages of the participants still employed at six months and twelve months after the end of the OJT.
- WIOA Title I formula funds and employer contributions expended on OJT.

H. Prohibition on Use of Funds to Encourage or Induce Relocation

No funds provided under this policy shall be used, or proposed to be used, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

I. Restrictions on Use of Funds for Business Relocation

No funds provided under this policy for an employment or training activity shall be used for customized or skills training, on-the-job training, incumbent worker training, transitional employment, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated until the date that is 120 days after the date on which such business commenced operations at the new location, if the relocation of such business or part of a business resulted in a loss of employment for any employee of such business at the original location and such original location is within the United States.

J. Business Services

OJT is an important business services initiative that is designed to benefit business and industry through recruitment and occupational skills training of new hires and skills development of existing employees. OJT increases employee productivity and supports company growth. LWDBs must describe their approach to OJT in their business services plans. OJT will also be tracked in each local plan's business engagement report, and the number and outcomes of OJT will be annually reported to the VBWD. To improve understanding and use of all forms of OJT, Registered Apprenticeship and Incumbent Worker Training by business and industry, the WIOA Title I Administrator will maintain a user's guide for local workforce boards, business, and industry.