



Ohio Valley Employment Resource

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Proudly serving Monroe, Morgan, Noble & Washington Counties, since 2000

Ohio Valley Employment Resource Policy Letter No. 15-22 (On the Job Training (OJT) Procedures)

I. Purpose

To establish guidance for entering into OJT contracts with employers. The training should meet the needs of the employer and must benefit the eligible customer(s).

II. Effective Date with WDB and COG motion #s

Revised November 2, 2020 – change in minimum wage rate; WDB 14-20
COG 12-20; July 1, 2015 COG motion 23-15 on 5/23/16 WDB motion 23-15

III. References

Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-22.1, On the Job Training (OJT) Policy

Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-09, Training Services for Adults and Dislocated Worker,

Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-10, Youth Program Services

Workforce Innovation and Opportunity Act, §§ 134, 188, Public Law 113-128.

NPRM § 680.700; .710; .720; .730; 740; .750 found at 80 Fed. Reg. 20860 (April 16, 2015) (to be codified at 20 C.F.R. § 678.700).

NPRM § 683.275 found at 80 Fed. Reg. 20882 (April 16, 2015) (to be codified at 20 C.F.R. § 683.275).

2 CFR Part 200, Appendix II

State On-the-Job Training Guidance Manual (August 2014). Copies are available online at <http://jfs.ohio.gov/owd/wia/Docs/OJT-Procedures-Manual.pdf>

IV. Requirements

Through OJT activities provided under the Workforce Innovation and Opportunity Act (WIOA), adult, dislocated worker, and youth participants can obtain the skill sets necessary to fill the jobs that are available and are being created in this economy. OJT is a type of training that is provided by an employer to a participant. During the training, the participant is engaged in productive work in a job for which he or she is paid, and the training provides knowledge or skills necessary to the full and adequate performance of the job. Employers must commit to hire and retain the participant at the end of a successful training period.

A. Participant Eligibility for an OJT

For participant eligibility please refer to state policies 15-22.1; 15-9; and 15-10, as applicable and the State On-the-Job Training Guidance Manual available online at <http://jfs.ohio.gov/owd/wia/Docs/OJT-Procedures-Manual.pdf>.

OJT participants must receive wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work. Appropriate workers compensation insurance protection must also be provided to all OJT participants by the employer.

OJT participants are not eligible to receive Needs Related Payments (NRPs) and cannot be immediate family members of the business owner or direct supervisor. Refer to the On-The-Job Training Guidance Manual for the different situations in which OJT-related conflict of interest may arise.

B. Employer Eligibility for an OJT

OJT is provided under an agreement with an employer in the public, private non-profit, or private for-profit sector to WIOA eligible participants. Consideration in selecting a participating employer include but are not limited to:

1. Working conditions (safety and health);
2. Presence of health benefits;
3. Wage structure;
4. Turnover rates;
5. Adequate staff and equipment to carry out the training; and
6. Compliance with federal, state and local laws.

Disqualifying Factors

Employers will be disqualified from participating in the OJT program in the following situations:

1. Businesses must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the State of Ohio. Below are three websites that may be helpful in checking tax, environmental compliance, and debarment status.

Federal Debarment Site: <http://www.sam.gov>

Ohio Department of Taxation: <http://www.tax.ohio.gov>

Business Filing Search: <http://www.sos.state.oh.us>

2. Businesses must not have any outstanding tax liability for over six months to the state of Ohio. Businesses are required to disclose any known outstanding tax liabilities prior to entering into contract. Documentation of outstanding tax liability resolution are required, if identified.
3. Businesses must not have any outstanding civil, criminal or administrative fines or penalties owed.
4. A previously exhibited pattern of failing to provide OJT participants with continued long-term employment disqualifies an employer.
5. The employer must be in compliance with all applicable federal, state, local laws and regulations related to providing reasonable working conditions.
6. If a business has relocated from one U.S. labor market to another and caused dislocation at the original location, OJTs may be available at the new location only after the business has conducted work at the new location for more than 120 days.
7. If the employer has laid off someone from a similar or "substantially equivalent" work at the same local operation, no OJT or other subsidized employment is permitted. The work is considered substantially equivalent if the overlap between the work (duties and job titles) is 80% or greater. This is for a six month period.
8. Training positions covered may not have been created by the displacement of an unsubsidized employee by a WIOA subsidized employee. There is no requirement for the job to be similar or substantially equivalent. The key is employer intent.

Private Placement Agencies

A private placement agency is an eligible employer for WIOA-funded OJTs, however, only if the position is not temporary.

Prohibited OJT Activities

Sectarian activities: Funds provided to employers for OJT may not be used to employ the participant/trainee in a position involving political or sectarian activities.

Union/Political: OJT participants may not assist, promote or deter union organizing, or engage in political activities during work hours.

Religious activities: OJT participants are prohibited to be employed in the construction, operation, or maintenance of any facility which is used for religious instruction or worship.

C. Employer Contracting and Reimbursement

OJT training payments to employers are deemed to be compensation for the extraordinary costs associated with training participant and potentially lower productivity. Employers are to be reimbursed up to 50 percent of the wage rate of an OJT participant.

The State or local area forms must be used. The ***OJT Agreement*** is a document signed by the employer, WIOA signatory and trainee detailing the terms and the training outline of training to be conducted. See the local ***OJT Agreement*** and supporting forms or the State OJT site.

A pre-award evaluation of the appropriateness of the employer must be conducted and documented, using the attachment in the ***OJT Agreement***. ***NO*** agreement can be signed until all issues identified are satisfactorily resolved.

The ***OJT Agreement*** must state the agreed upon maximum amount that WIOA will reimburse an employer per trainee during the contract period, not to exceed **\$8,000 and 13 weeks per OJT contract, and payments can be no more than 50% of each Trainee's straight worked compensation.** This does not include: holiday, sick, personal, vacation or other unworked compensation. All worked hours can be reimbursed at the trainee's normal rate of pay at the time worked (Extra employer payments for overtime, shift deferential, piece incentive, etc. are not reimbursed).

The hours set in the ***OJT Agreement*** are the maximum hours reimbursed and are determined by an evaluation of the trainee's skills/aptitudes at date

of hire and the tasks identified in the training outline.

Evaluations must be completed at approximately the midpoint of contract and contract completion and contained in the trainee's WIOA file.

The participant must receive an OJT wage of **at least the current minimum adult wage performance standard**.

For a currently employed trainee not at self-sufficiency, there must be an expectation that at successful completion of the OJT there will be **a wage gain of at least \$0.50/hour**.

V. Technical Assistance

At the county level, it is the county's discretion to contact the state directly or to start with the Area Executive Director. However, regardless of choice, the Area Executive Director must be consulted, whether directly or by cc: on email, so that the WDB is informed and engaged in local implementation.

If the guidance needed is solely on local policy, the county may request that the issue be addressed at the next WDB meeting, if the Area Executive Director's guidance is not sufficient or responsive to the county need.