



CENTRAL ARKANSAS Workforce Development Board

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On-the-Job Training Policy

Purpose:

The purpose of this policy is to describe and to detail the regulations concerning on-the-job training (OJT), in accordance with the rules and regulations of Workforce Innovation and Opportunity Act of 2014 (WIOA), the WIOA Final Rule, Training and Employment Guidance Letters (TEGLs) published by the Employment and Training Administration of the U.S. Department of Labor (ETA), and policies of the Central Arkansas Workforce Development Board (CAWDB).

References:

WIOA §§ 3(24), 3(44), 134(c)(3), & 188(a)(3)
20 CFR 680, 681, & 683
Comments in WIOA Final Rule concerning §680.320
29 CFR part 2, subpart D
TEGLs 10-16, Change 1; 13-16; 19-16; & 14-18
Arkansas State Plan 2020-2023

Most recent version of the following policies and procedures:

- ADWS Policy No. WIOA I-B – 1.2 (Definitions)
- ADWS Policy No. WIOA I-B – 2.8 (Priority for Individuals with Barriers to Employment)
- ADWS Policy No. WIOA I-B – 3.1 (Services for Adults and Dislocated Workers)
- ADWS Policy No. WIOA I-B – 3.6 (Incumbent Worker Training)
- ADWS Policy No. WIOA I-B – 3.3 (Occupational Skills Training)
- ADWS Policy No. WIOA I-B – 3.5 (Registered Apprenticeships)
- ADWS Policy No. WIOA I-B – 3.7 (Customized Training)
- ADWS Policy No. WIOA I-B – 3.8 (Work Experience)
- ADWS Certification of Local Workforce Development Boards

Policy:

On-the-job training (OJT) is a work-based training that provides WIOA eligible participants occupational skills training essential to the performance of a specific job. OJT provides reimbursement to the employer for up to 50% of the participants wage rate for the cost of training and supervision related to training. The Central Workforce Development Area may use this training method to address critical workforce needs, enhance skills of eligible participants and to aid eligible employers in attaining a qualified skilled workforce with competencies needed to meet the employer's needs.

Employer Requirements

OJT is provided under a contract with an employer or registered apprenticeship program sponsor in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIOA participant in exchange for the reimbursement, typically up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and supervision related to the training. In limited circumstances, as provided in WIOA sec. 134(c)(3)(h) and § 680.730, the reimbursement may be up to 75 percent of the wage rate of the participant.

OJT contracts under WIOA title I, must not be entered into with an employer who has received payments under previous contracts under WIOA or WIA if the employer has exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

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, prior work experience, and the participant's IEP

OJT is training provided by and employer to a paid participant who is engaged in productive work in a job that:

- (a) provides knowledge or skills essential to the full and adequate performance of the job.
- (b) is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant (except in some cases where it may be as high as 90 percent) for the extraordinary costs of providing the training and additional supervision related to the training; and
- (c) is limited in duration as appropriate to the occupation for which the participant is being training, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate [WIOA § (3)(44); WIOA § 134(c)(3)(H; Arkansas State Plan 2020-2023)].

Employers are not required to document the extraordinary costs [20 CFR 680.720(b)].

OJT Training Plan

The OJT plan is a formal document detailing the structured job training and must provide participants with a combination of instruction in observable, and measurable job-ready skills, general employment competencies and occupational skills. OJT may be combined with customized training, if appropriate. Each OJT plan will be developed based on the participant's ISS and/or IEP, and the occupation the participant has selected.

OJT Contract Requirements

WIOA program staff must ensure that all OJT is provided under a written contract with an employer or registered apprenticeship program sponsored in the public, private non-profit or the private sector. Employers providing OJT are not required to meet the conditions for inclusion on the Eligible Training Provider List. In developing the OJT contract, staff must ensure:

1. OJT contracts include related requirements specific to the state and local areas and related to OJT's funded through other federal programs.

2. The OJT contract includes an explanation of how participants will be provided with a structured training opportunity. All training services shall be provided in a manner that maximizes consumer choice.
3. OJT participants are compensated at the same wage rates, including periodic increases, as trainees or employees who are in similar occupations by the same employer and who have similar training, experience, and skills. Wage rates must be in accordance with applicable law.
4. That they do not provide or extend OJT contracts to employers who have previously exhibited a pattern of ineffectiveness in providing OJT participants with continued, long-term employment.
5. OJT contracts are to be signed and dated by the appropriate staff and the employer. However, the training plan should be signed by the participant and the WIOA staff. This must take place prior to the execution of the contract. The staff is responsible for ensuring that the contract and/or training plan is signed and agreed upon by all parties, prior to the participant's initial start date.
6. OJT contracts include any applicable provisions required by federal statutes and executive orders listed, including Equal Opportunity, Davis Bacon Act, and other provisions outlined in 2 CFR part 200, Appendix II.
7. OJT contracts include employer responsibilities and required assurances that the employer will provide to the participant during and following the OJT.
8. No participant is placed in an OJT where a member of that person's immediate family is directly supervised by or directly supervises the participant. Family means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:
 - a. A married couple.
 - b. A married couple and dependent children; or
 - b. A parent or guardian and dependent children
9. That they verify that employees were not laid off at the previous location because of the relocation from another area of the United States if:
 - a. An employer is an established or new business; or
 - b. The employer has operated at the current location less than 120 days (of operation) and relocated from another area in the U.S.
10. Staff will monitor each OJT assignment, periodically, until the assignment is complete

Eligibility Requirements for Adult and Dislocated Workers

For the purpose of determining eligibility for OJT, "employment status" is determined at the time of eligibility determination for the training. Eligibility for OJT may be determined at the time of program entry, or it may be made after other services or activities have been provided and participant needs OJT. Note that an individual who is in the military, is in a Registered Apprenticeship program, or is self-employed is considered as employed [TEGLs 10-16 & 13-16].

For adults and dislocated workers, eligibility for this training is the same as for all other training services. The individual must have met all requirements to become a participant in the particular

program. The participant must have been determined, after an interview, evaluation, or assessment, and career planning to be:

Under WIOA sec. 134(c)(3)(A) training services may be made available to employed and unemployed adults and dislocated workers who:

(a) A one-stop center or one-stop partner determines, after an interview, evaluation, or assessment, and career planning, are:

(1) Unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services;

(2) In need of training services to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment; and

(3) Have the skills and qualifications to participate successfully in training services;

(b) Select a program of training services that is directly linked to the employment opportunities in the local area or the planning region, or in another area to which the individuals are willing to commute or relocate;

(c) Are unable to obtain grant assistance from other sources to pay the costs of such training, including such sources as State-funded training funds, Trade Adjustment Assistance (TAA), and Federal Pell Grants established under title IV of the Higher Education Act of 1965, or require WIOA assistance in addition to other sources of grant assistance, including Federal Pell Grants (provisions relating to fund coordination are found at § 680.230 and WIOA sec. 134(c)(3)(B)); and

(d) If training services are provided through the adult funding stream, are determined eligible in accordance with the State and local priority system in effect for adults under WIOA sec. 134(c)(3)(E) and § 680.600.

Participant Requirements for Youth

OJT is classified as a paid work experience under Program Element 3 of the Youth Program. Each youth who has been determined eligible either as an In-school Youth or an Out-of-school Youth may receive OJT if appropriate, as determined by CAWDB. The appropriateness of this program element for an eligible youth is established through the participant's objective assessment and individual service strategy [20 CFR 681.460(b)]. Although OJT is a training service for adults/dislocated workers and a work experience for youth, the guidelines and policies for both are the same [20 CFR 681.600(c)(4)].

Employed Workers

Special rules apply if an OJT contract is written for an employed worker. An OJT contract may be written for an eligible employed worker (an employed worker who meets eligibility criteria for the particular program) only when all other program eligibility requirements and other OJT requirements are met (as described in this policy), and when the employee meets all of the following requirements [20 CFR 680.210 & 680.710]:

(a) The employee meets basic requirements to receive training services, as listed above, in 20 CFR 680.210, and in Services for Adults and Dislocated Workers Policy;

- (b) The employee is not earning a self-sufficient wage, as determined by the CAWDB, or wages compared to or higher than wages from previous employment;
- (c) All other OJT requirements are met; and
- (d) The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the CAWDB, along with increased wages.

Registered Apprenticeships and Incumbent Workers

An OJT contract may be entered into with registered apprenticeship program sponsors or participating employers in registered apprenticeship programs for some or all of the OJT portion of the registered apprenticeship program, consistent with the guidelines of this policy [TEGL 19-16]. Depending on the length of the registered apprenticeship and local policies, the OJT may last for some or all of the registered apprenticeship training [20 CFR 680.740(a)]. Some information concerning the connection between an OJT and a registered apprenticeship (RA) are included in this policy. Additional information is contained in the Registered Apprenticeships Policy.

When an OJT contract is written for participation in a registered apprenticeship program, all eligibility requirements and other OJT requirements must be met. This means that if the apprentice is employed at the time of participation in the OJT:

- (a) He or she must not be receiving a wage leading to self-sufficiency (or wages lower than wages from previous employment) before the OJT contract.
- (b) He or she must expect to receive a wage leading to self-sufficiency (or wages comparable to or higher than wages from previous employment) because of the OJT.
- (c) The OJT must be related to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the CAWDB.
- (d) The participant is unable to obtain or retain employment without the training; and
- (e) The participant is unable to obtain assistance from other sources to pay the costs of the training. [20 CFR 680.210, 680.720, & 680.740].

Incumbent worker training may be an option for upskilling apprentices who already have an established working/training relationship with the RA program [TEGL 19-16]. See Incumbent Worker Training Policy for more information.

OJT In-Person Worksite Visit

Staff must conduct an in-person visit to each worksite where an OJT participant is placed at least once per year. The purpose of the in-person visit is to assess the appropriateness of the site and to ensure that it meets all the terms of the worksite agreement. The site visit must be recorded in case notes for the employer and must include the date of the most recent worksite visit, the name of the CAWDB staff member who conducted the visit and the outcome of the visit.

Payments to Employers, Wages and Participant Hours

Payments to employers for OJT must comply with federal regulations and state guidelines, and in accordance with the specific WIOA program guidelines. OJT payments are compensation for the employers' "extraordinary costs" associated with training participants and potentially lower productivity of the participants while in OJT.

WIOA funds will not be utilized to pay for the following:

1. Paid or unpaid holidays.

2. Sick leave.
3. Vacation.
4. Overtime hours.
5. Fringe benefits; and/or
6. Work performed outside the OJT contract.

Staff will retain records for each OJT employer and OJT participant. Any calculation of hours worked or timesheets recording wages and/or benefits by the participant must also be recorded in the case file and will be monitored.

Reimbursement Guidelines

Through the OJT contract, occupational training is provided for the WIOA participant in exchange for the reimbursement, typically up to 50 percent of the wage rate of the participant, to compensate for the extraordinary costs of providing the training and supervision and the decreased productivity of the participant [WIOA § (3)(44); 20 CFR 680.700(a); 20 CFR 680.720; TEGL 19-16]. The employer does not have to document the extraordinary costs [20 CFR 680.720(c)]. This rate may be increased to an amount of up to 75% if the CAWDB approves the increase, taking into account the following factors [WIOA § 134(c)(3)(H); 20 CFR 680.700(a); 20 CFR 680.720(b); 20 CFR 680.730(a); TEGL 19-16]:

1. The characteristics of the participants, especially individuals with barriers to employment. See WIOA § 3(24), or the Priority for Individuals with Barriers to Employment Policy for more information concerning individuals with barriers to employment.
2. The size of the employer, with an emphasis on small businesses (The State specifies a business size of 51 – 250 employees for this level of reimbursement.)
3. The quality of employer-provided training and advancement opportunities, for example if the OJT contract is for an in-demand occupation and will lead to an industry-recognized credential; and
4. Other such factors as the CAWDB may determine to be appropriate, which may include the number of employees participating in the training, wage and benefit levels of those employees (comparing pre-participation and post-participation earnings), and relation of the training to the competitiveness of a participant.

Staff must document the factors used when deciding to increase the wage reimbursement levels above 50 percent up to 75 percent [20 CFR 680.730(b); TEGL 19-16]. Documentation may be made in the form of CAWDB minutes or similar documents.

Other Guidelines and Requirements

The participant may not be employed to construct, operate, or maintain any part of a facility used for sectarian instruction or as a place for religious worship, with the exception of maintenance of facilities that are not used primarily for sectarian instruction or worship and are operated by organizations providing services to WIOA participants [WIOA § 188(a)(3); 20 CFR 683.255(a); 20 CFR 683.285(b)]. Special rules concerning training administered by religious organizations can be found in 29 CFR part 2, subpart D (Equal Treatment in Department of Labor Programs for Religious Organizations, Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries) [20 CFR 683.255(b); 20 CFR 683.285(b)].

No funds may be provided to employers for work-based training may be used directly or indirectly to assist, promote, or deter union organizing [20 CFR 680.830]. No funds may be provided to employers for work-based training to be used directly or indirectly to aid in the filling of a job opening that is vacant because the former employee is on strike, the former employee is being locked out in the

course of a labor dispute, or the job is vacant because of an issue in a labor dispute involving a work stoppage [20 CFR 680.840].

WIOA funds may not be used for the encouragement or inducement of a business or part of a business to relocate from any location in the United States if the relocation results in any employee losing his or her job at the original location. No individual may be placed in work experience in any business or part of a business that has relocated from any location in the United States until the company has operated at that location for 120 days if the relocation has resulted in any employee losing his or her job at the original location. To verify that a business that is new or expanding and is not, in fact, relocating employment from another area, a standardized Arkansas pre-award review criteria must be completed and documented jointly by the local area and the business (FORM WIOA I-B – 4.1 Standardized Pre-Award Review Criteria) [20 CFR 683.260].

A participant in any workforce training activity must not displace any currently employed employee, including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits. The workforce training activity must not impair existing contracts for services or collective bargaining agreements unless the appropriate labor organization and the employer provide written concurrence before the activity begins. The participant may not replace an unsubsidized employee who was laid off from the same or any substantially equivalent job or who was terminated with the intention of hiring the participant. The participant may not be placed in a promotional line that infringes in any way on the promotional opportunities of currently employed workers as of the date of the participation in the training activity [20 CFR 683.270].

Participants must receive benefits and working conditions at the same level as other trainees or employees working a similar length of time and doing the same type of work [20 CFR 683.275]. Health and safety standards established under Federal and State law otherwise applicable to the working conditions of employees are equally applicable to the working conditions of participants. To the extent that a State workers' compensation law applies, workers' compensation must be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment [20 CFR 683.280].

Approved by:

Michael Flores

Date:

12/9/2024

Title: CAWDB Board Chair

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