


<b>Workforce Connections General Policies On the Job Training Program - OJT</b>	<h1>GEN-050-10</h1>
<b>Supersedes Policy 3.8 Dated May 11, 2012</b>	<b>Revision No. 7 Effective: 08-20-19</b>
<b>Policy Approved by: WC Executive Director Policy Adopted on: August 01, 2013</b>	

**Purpose:**

To provide guidance on established standards for the provision of On-the-Job training (OJT) services to Workforce Innovation and Opportunity Act (WIOA) Title I eligible participants and employers.

**Background:**

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 the knowledge or skills essential to the full and adequate performance of the job. The OJT is made available through a training program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in Sec. 134 (c) (3) (H) of WIOA, for the extraordinary cost of providing the training and additional supervision related to the training program. Both providers of OJT training and providers of services must be offering the highest quality training to WIOA Title I eligible participants. WIOA Title I OJT contracts must be continually monitored to ensure that OJTs provide program participants with successful full time employment. It is important that OJTs provide participants with in-demand skills with opportunities for career advancement and employers with a skilled workforce.

**Policy:**

Workforce Connections has established that an OJT program is appropriate when the need for training has been identified in the Individual Employment Plan (IEP) or the Individual Service Strategy (ISS) wherein the participant’s interests, abilities, and needs have been also identified. Therefore, the following guidelines are designed to assist providers of WIOA Title I services in the planning and execution of an OJT training program. The guidelines will also assist in meeting local regulations which require that, to be permissible, costs incurred in the OJT training program must be necessary, reasonable and allowable. The OJT must lead to long-term employment with the involved employer.

**Reference:**

Public Law (P.L.) 113-128 WIOA Secs. 3, 122, 134, 181, 189, 194, 503; 20 CFR Part 678; 20 CFR Part 680; 20 CFR Part 683; 29 CFR Part 38; TEGL 13-15; TEGL 19-16; State TAG 15-3; State Compliance Policies (SCPs) 1.14; SCP 3.6.

The OJT program is not a subsidy to employers for normal hiring. **WIOA Title I funds should be used to pay for training activities, not placements and wage subsidies.** All information required by Federal, State, and local reporting requirements must be collected for each individual receiving this service. The appropriateness of any service provided to an eligible program participant should be documented in the IEP/ISS and should show a clear linkage between the provided services and potential improvement in the participant’s employability or career objective goals.

<b>Workforce Connections Policy GEN-050-10</b>	<b>WC General Policies</b>
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**I. General Provisions/Guidelines for On-the-Job Training (OJT).**

**A.** OJTs as allowed by WIOA Title I is a viable training tool for eligible program participants. An OJT can be an effective tool in assisting WIOA Title I eligible participants in becoming gainfully employed after receiving individualized career services and who have been unsuccessful in finding employment. Since training is conducted at the work place the OJT is one of the most legitimate and successful forms of training.

**B. General Guidelines**

1. OJT programs shall only be approved for participants who have been properly assessed, who have at least received individualized career services, and where an Individual Employment Plan (IEP) or Individual Service Strategy (ISS) has been developed with a career coach to identify and document participant skills, interests, need for training, and employment or educational goals.
2. The case file must contain a determination of need for training services as identified in the IEP/ISS, where the participant and career coach will identify employment goals, appropriate achievement objectives, and the appropriate combination of services for the participant to achieve the employment or educational goals.
3. OJTs are allowed for youth ages 18-24 as long as the requirements of this policy are met. For In-School-Youth (ISY), prior to the approval of an OJT activity, the youth lacking his/her HSD, or its equivalent, must be enrolled in a program of education leading to the attainment of a secondary credential/certificate to run concurrently with the approved training activity. Adjusted diplomas are acceptable for youth with disabilities based on a prior determination of need or assessment of participant's individual educational goals or objectives. OJT activities must be clearly addressed in the participant's ISS.
4. OJTs for Employed Individuals
  - a) Consistent with section 134(c)(3)(A) of WIOA and its associated regulations, training services may be provided to an eligible employed individual when the employee **is not** earning a self-sufficient wage or wages comparable to, or higher than, wages from previous employment. Please refer to Workforce Connections policy GEN-050-09 for established requirements.
  - b) Additional Requirements: Under 20 CFR §680.710 OJT contracts may only be written for eligible employed workers when:
    - 1) The established requirements for OJTs and the requirements of this policy are met;
    - 2) The individual is not earning a self-sufficient wage as indicated above; and
    - 3) The OJT relates to the introduction of new technologies, introduction of new production or service procedures, or reassignment to a new job within the company that requires additional skills, workplace literacy; and the OJT leads to a wage/benefits increase.
  - c) Exceptions to the above established requirements may be granted by Workforce Connections.

A written request must be submitted to Workforce Connections and must include, at a minimum, the following:

    - 1) Detailed description of the factors pertaining to the request; and
    - 2) Support documentation needed to validate the basis for the request.

Approval may be granted by Workforce Connections on an individual case review basis.

5. OJT programs must be limited to the period of time required for a program participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the OJT contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the program participant, prior work experience, the IEP/ISS and documented in detail in the skills gap analysis.

The skills gap analysis must also identify the O\*Net job zone for the occupation for which the OJT is being developed. The O\*Net job zone structure is a universal system that classifies occupations by how much education, related experience, and on-the-job training people need to do the work.

The SNWDA has set forth the following maximum limits for an OJT based on the O\*Net job zone identified for the occupation:

Job Zone	Maximum of Training Hours
2	Up to 240
3	Up to 480
4	Up to 960
5	Up to 1440

Exceptions to the above established limits may be approved by Workforce Connections on an individual case review basis.

6. A comprehensive training plan must be developed prior to OJT program start. The description of training must indicate the occupational areas or skills the participant will be trained to perform, specific measurable objectives, and number of hours of training required to obtain those skills, and the criteria for measuring and monitoring the attainment of those skills. Once skills have been identified and a method for measuring them has been established, trainee progress can be determined.
7. Final evaluation must be completed by the OJT employer to evaluate the attainment of the skills during the OJT program as outlined in the training plan. Additionally, the employer must evaluate whether the skill was met or not met at the completion of the OJT program. Both the trainee and the employer must acknowledge that the training took place, and the training program was completed.
8. Contracting with Employers
  - a) Providers of WIOA Title I services must not contract with employers who have received payments under previous contracts under WIOA or the Workforce Investment Act of 1998 (WIA) and have exhibited a pattern of failing to provide OJT program 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 (WIOA Sec. 194 (4)).

- b) Providers of WIOA Title I services must report each failure to complete an OJT or to retain an OJT employee/trainee to their Workforce Connections program manager through the designated reporting mechanism. This data will be used to develop and maintain a list of employers who have exhibited patterns of failure and distributed at least semi-annually to the providers of WIOA Title I services within the SNWDA.

9. Inappropriate OJT programs

For the use of WIOA Title I funds, the following prohibitions apply or are deemed to be inappropriate training services, these may include, but are not limited to, placing participants in occupations: a) in lower wage industries where prior skills or training is not a prerequisite for hire; b) with high labor turnover; c) deemed part-time or seasonal; d) with a substantial number of experienced and able workers who are presently unemployed; e) dependent on tips and/or commissions to equal the minimum wage; f) with low paying positions that offer no advancement opportunities; and g) with training activities that may be considered common or general onboarding practices and/or procedures.

10. OJT and Registered Apprenticeship Programs

Registered Apprenticeship (RA) is a proven approach for preparing workers for jobs while meeting the needs of business for a highly-skilled workforce. It is an employer-driven, learn while you earn model that combines on-the-job training, provided by the employer that hires the apprentice, with job-related instruction in curricula tied to the attainment of national skills standards.

- a) OJT contracts may be entered into with RA program sponsors or participating employers in a RA program for the OJT portion of the RA program consistent with provisions codified at 20 CFR §680.700.

- b) If the apprentice is unemployed at the time of participation, the OJT activity must meet the requirements of this policy.

**II. OJT – The Employer:**

The OJT is provided under an agreement with an employer in the public, private non-profit, or private sector. Prior to entering into an OJT contract with the employer, a pre-award assessment must be conducted to ensure that the employer meets the minimum standards and can provide both training and long-term employment to OJT participants.

The pre-screening and/or pre-award assessment must include, at a minimum:

**A. Compliance:**

1. Federal, State, and local regulations,
2. Fair Labor Standards Act of 1938,
3. Non-discrimination and equal opportunity provisions of WIOA and its associated regulations,
4. Americans with Disability Act,
5. Health and safety standards,
6. Drug free workplace requirements, and
7. State workers' compensation law requirements.



**B. Assurances**

1. The employer verifies that WIOA Title I funds will not be used to relocate operations in whole or in part.
2. The employer verifies that funds provided under Title I of WIOA will not be used for OJT programs for any business or part of a business that has relocated, until 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.
3. The employer commits to providing full time, long-term employment following the end date of the OJT program, for successful OJT trainees.
4. The employer agrees to comply with the nondiscrimination and equal opportunity provisions of WIOA Sec. 188 and those found at 29 CFR Part 38, including complaint processing and compliance reviews. The employer also assures that it shall not discriminate in its employment practices or delivery of training activities on the basis of race, color, religion, sex (including pregnancy, childbirth and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States.
5. The employer assures that WIOA Title I funds will not be used to directly or indirectly assist, promote or deter union organizing.
6. The employer assures that the OJT participants will not carry out the construction, operation or maintenance of any part of a facility that is used or to be used for sectarian instruction or as a place for religious worship.
7. The employer assures that OJT participants will not be required to participate in political activities.
8. The employer assures that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
9. The employer assures that it will provide a drug-free workplace as defined by the Drug-Free Work Place Act of 1988.
10. The employer assures that is in compliance with all State and local laws regarding taxation and licensing.
11. The employer assures that trainees placed as laborers/mechanics in any construction, alteration or repair (including painting and decorating) of public buildings works must be compensated consistent with the Davis-Bacon Act.
12. The employer certifies that it is using and abiding by all State and Federal employment authorization regulations for all new employees physically performing services within the State of Nevada.

13. The employers assure that OJT trainees will be provided with the same workers' compensation, health insurance, unemployment insurance, retirement benefits, as regular, non-OJT employees.
14. OJT trainees are compensated at the same rates, including periodic increases, as non-OJT employees but, in no event, less than the highest minimum wage specified under the Fair Labor Standards Act of 1938.
15. The employer commits to conducting the necessary due diligence for all referred OJT participants. Such due diligence includes, but is not limited to, screening OJT candidates to the expectations and requirements of the employer prior to hiring.
16. A participant in a program activity authorized under Title I of WIOA must not displace including partial displacement, such as a reduction in the hours of non-overtime work, wages or employment benefits any currently employed employee as of the date of the participation (20 CFR §683.270 (a)).
17. A program or activity authorized under Title I of WIOA must not impair existing contracts for services or collective bargaining agreements. When a program activity authorized under Title I of WIOA would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the program or activity begins (20 CFR §683.270 (b)).
18. A participant in a program or activity under Title I of WIOA may not be employed in or assigned to a job if: 1) any other individual is on layoff from the same or any substantially equivalent job; 2) the employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the WIOA participant; or 3) the job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers (20 CFR §683.270 (c)).
19. Regular employees and program participants alleging displacement may file a complaint under the applicable grievance procedures found at (20 CFR §683.600, WIOA sec. 181).
20. Pursuant to SCP 1.14, per program year, an employer cannot receive more than 20 percent of current total staffing levels on OJT contracts. Consistent with the State established requirements, at least one OJT per employer is allowed, regardless of the number of employees employed with such employer.
21. Consistent with Sec. 181 (a)(1)(A) of WIOA the employer is required to compensate OJT participants at the same rates as trainees or employees who are in similar occupations by the same employer and who have comparable training, experience, and skills.

### **III. OJT – The Process**

#### **A. Pre-Award**

An employer pre-award must be completed with the provider of WIOA Title I services and the employer prior to entering into a contract and pursuing OJT activities. Workforce Connections will maintain pre-award assessments in a system directory for each program year; service providers must consult this directory prior to conducting a new assessment and must also submit newly conducted assessments to Workforce Connections to be shared in this directory. If an assessment is on file, a new assessment is not needed; the service provider is responsible for obtaining and verifying the pre-award and maintaining it in the file as directed. Workforce Connections will only maintain these assessments for the benefit of the system but will not be screening them or requesting renewals for subsequent program years. Employers are subject to a pre-award assessment annually; assessments will be valid for the initial program year in which they were completed with new assessments needed for each subsequent program year (July to June).

The provider of WIOA Title I services representative shall, at a minimum:

1. Give careful consideration when selecting a suitable employer for OJTs;
2. Conduct and confirm the assessment with the employer overview to confirm past placement success, retention and employee separations due to layoffs; and
3. Ensure all employer assurances are met as well as all requirements necessary to execute the master contract.

#### **B. Master Contract**

A master contract must be developed after the successful completion of a pre-award assessment. This contract outlines the general requirements of any OJT activity a provider of WIOA Title I services and employer initiate; the contract should be written to cover planned and projected activities, but may never be longer than one calendar year at a time and must expire on June 30<sup>th</sup> of each year to follow the program year framework.

1. The master contract must be completed in tandem with the employer and the provider of WIOA Title I services representative.
2. It is the responsibility of the provider of WIOA Title I services representative to review all OJT master contract general assurances with the employer.
3. Must be fully executed and will not be considered valid unless it is properly signed and dated by both the employer and the provider of WIOA Title I services signatory authority. A copy of the fully executed OJT contract must be part of each program participant's file who is trained under the terms of the contract.

#### **C. Skills Gap Analysis**

When a participant has been identified, the provider of WIOA Title I services must conduct a skills gap analysis in compliance with the general guidelines outlined herein.

1. The purpose of the skills gap analysis is to identify the specific required skills necessary for the eligible participant to successfully complete the training activity.
2. The skills gap analysis must identify specific skills to be met at the end of the training activity. A job description may be used to identify the skills needed by the employer.

3. An O\*Net occupation profile must be used to determine the job zone and to explore additional skills that may be needed to be successful in this occupation. The O\*Net occupation profile may replace or stand in for a job description in the event an employer does not already have one developed.
4. The skill gap analysis must be completed in partnership with the employer but should be developed by the provider of WIOA Title I services representative.

#### **D. Training Plan Development Implementation**

Providers of WIOA Title I services must develop a training plan when the skills gap analysis is completed. The executed training plan becomes the individualized addendum to the master contract and fully authorizes the OJT activity.

1. The training plan will contain occupationally specific skills required for competency in the OJT occupation.
2. The training plan must note the necessary skills that require training from the skills gap analysis and identify the initial skills level.
3. In order to best achieve the attainment of the required skills, the provider of WIOA Title I services representative and employer must determine the training method and the estimated number of hours noted on the job zone dictated by the occupation profile from O\*Net and the skills gap analysis. Additionally, the provider of WIOA Title I services must complete the training plan by completing the:
  - a) Job zone maximum hours,
  - b) Start and end date of the training activity,
  - c) Hourly wage, and
  - d) Reimbursement rate and maximum reimbursement costs.
4. The training plan must be agreed upon by the WIOA eligible participant and the employer. An initial training plan presented to an employer may be negotiated to accommodate individual training plans and needs, but may never exceed the maximum period identified by the occupation's job zone.
5. The final, agreed upon training plan must be signed and dated, by all parties, to be considered valid. An OJT participant may not commence the employment and training until the training plan is fully executed.
6. In the event that the initial training plan does not provide enough time to successfully obtain the skills needed for the job, a revised training plan may be developed to accommodate additional training time. The revised training plan must include a progress update to record the participant's current status in the training and outline the new training methods and timeframes. The total training time may not exceed the maximum period identified by the occupation's job zone.



### **E. OJT Closure – Reimbursement and Final Evaluation**

Providers of WIOA Title I services must document the progress and closure of the training activity by obtaining routine progress updates, monthly invoices for reimbursement and a final evaluation at the end of the OJT activity.

1. Providers of WIOA Title I services must maintain communication with the employer and participant throughout the duration of the OJT.
2. Providers of WIOA Title I services may obtain progress updates by conducting onsite employer visits or conducting phone calls to the supervising employer and participant. Providers of WIOA Title I services may additionally communicate via email; however, verbal and onsite visits are encouraged as the primary contact vehicles.
3. Invoices may be submitted by the employer, for reimbursement, throughout the duration of the OJT program, as agreed upon by the sub-recipient and the employer. Final invoices must be submitted to the sub-recipient within 30 days of the end of the OJT program and must include back-up documentation to validate the request. If, an extension to this deadline is needed, the employer must communicate that with the sub-recipient.  
Invoices must be legible, and properly signed by the employer. No corrections shall be made to the submitted invoice by the provider of WIOA Title I services representative.
  - a) OJT employers must submit timesheets and/or attendance records documenting training/work hours with each invoice. Value of total hours must match training/work hours, taking into consideration agreed percentage of reimbursement and hourly wage rate. All submitted paperwork must be legible and verifiable.
  - b) Payroll records must be submitted with each invoice, to validate that the participant has been paid for the training/work hours being invoiced.
  - c) The participant, employer and service provider must review and sign the invoice to verify its accuracy and confirm the training is taking place.
4. OJT trainees may work overtime for an employer as long as the trainee does not object, and provided they are compensated at the employer's usual rate. OJT participants may work overtime at the hourly wage stated on the training plan. Overtime rates at anything other than the agreed rate will not be reimbursed. Paid Federal or local holidays, recognized by the employer as being paid days off, are reimbursable.
5. All documentation related to OJT contract reimbursement must become part of the program participant's file.
6. When a participant successfully completes an OJT, the employer will need to complete a final evaluation form to validate the training and retention of the trainee as a regular employee. The final evaluation must be completed and dated on the last day of the activity.



**F. Support documentation required for the participant file:**

1. Properly completed OJT pre-award assessment,
2. Copy of company's certificate of liability insurance – both commercial/industrial and workers' comp,
3. Copy of valid business license,
4. Master OJT contract,
5. Skills gap analysis,
6. Fully executed training plan,
7. Final evaluation,
8. Copy of job description and/or O\*NET occupation profile,
9. Copy of employer invoices (legible copies),
10. Copy of timesheets/attendance records,
11. Copy of payroll records (legible copies), and
12. Copy of payment to employer for OJT program hours.

**G.** Workforce Connections has established a dollar amount cap for OJTs which is not to exceed \$10,000 (ten thousand dollars). Providers of WIOA Title I services are to base the total amount for OJTs on each eligible program participant's needs and circumstances and the availability of program funds. Exceptions to the established cap may be requested. Approval may be granted by Workforce Connections based on an individual case review.

**IV. Reimbursement to Employer**

- A.** Employers may be reimbursed up to 50 percent of the wage rate of an OJT program participant for the extraordinary costs associated with training and additional supervision related to the OJT. Otherwise a waiver must be in place.
- B.** Extraordinary costs associated with training of participants are usually understood to mean: a) more intensive supervision; b) above average material waste; c) abnormal wear on tools; d) down time; and e) lower rates of production.
- C.** Employers are not required to document such extraordinary costs.
- D. Payment**
1. Workforce Connections will process all payments related to OJTs. The provider of WIOA Title I services is required to submit the OJT "obligation form" at least two (2) days prior to the OJT start date to WC for payments to be authorized and processed. All liability will remain with the provider of WIOA Title I services for any payments determined to be disallowed for any reason. Any training payments made directly by the provider of WIOA Title I services may not be reimbursed.
  2. For payment(s) to be processed, the following must be submitted by the provider of WIOA Title I services: a) OJT acknowledgement form; and b) invoice.
  3. In the event an OJT program is developed for a new employer, the provider of WIOA Title I services is responsible for submitting the employer's W-9 form.



4. For the purpose of appropriate programmatic and fiscal management practices, the total training program cost must be obligated at the time the program participant is enrolled in the training program (not when an OJT is established or approved). The planning and/or approval of training activities alone do not constitute an obligation. This must be taken into consideration to ensure the most effective use of training funds.
5. No training cost shall be paid if an individual has started a training activity prior to enrollment in a WIOA Title I program unless prior written approval is obtained from Workforce Connections.

**V. Performance Information**

On-the-job training programs are particularly well positioned to help the workforce development system to satisfy the new measures on job retention and effective service to businesses, given its focus on placing program participants into employment, addressing the skilled workforce needs of businesses and encouraging the retention of successful OJT trainees.

- A. Consistent with SCP 1.14 the local boards will be responsible for determining whether training providers meet acceptable performance levels, financial and regulatory requirements and the overall effectiveness of the OJT contract. Providers of on-the-job training are not subject to the requirements applicable to entities listed on the State list of eligible training providers.
- B. Workforce Connections must collect performance information on providers of on-the-job training programs. At a minimum collected performance information should include:
  1. Data on placement of trainee at the end of OJT program;
  2. 2<sup>nd</sup> and 4<sup>th</sup> quarter retention rates;
  3. Rate of successful completion of OJT programs; and
  4. Wages of OJT trainees and wages after OJT program ends.