

South Central Ohio Workforce Partnership

Area 20/21 Workforce Development Board

On-the-Job Training Policy

Effective: December 3, 2009

Revised: October 14, 2020



I. Purpose

The purpose of this policy is to provide guidance to the OhioMeansJobs (OMJ) centers when providing on-the-job training (OJT) to adult, dislocated worker, and youth participants with formula funds.

II. Effective

Immediately

III. Background

Under the Workforce Innovation and Opportunity Act (WIOA), there are additional work-based training options and flexibilities for adults, dislocated workers, and youth. Work-based training presents a great opportunity for fostering increased employer engagement, implementing sector strategies, and encouraging industry partnerships, as these types of training allow employers to train their employees while their employees continue to be productive members of the workforce. OJT is one such work-based training for the Adult and Dislocated Worker programs. OJT is considered a work experience under the WIOA Youth program.

OJT continues to be a key method of delivering training services to adults, dislocated workers, and youth. Through OJT activities provided under WIOA, adult, dislocated worker, and youth participants can obtain the skill sets necessary to fill the jobs that are available and that are being created in this economy. OJT is a type of training or work experience that is provided by an employer to a participant. During the training or work experience, 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. OJT activities support the development of a workforce with skills that meet the needs of employers and provide additional training options for workers and employers. OJT provides an incentive to employers to hire individuals and invest in their skill development, and trainees can

earn a wage as they learn. It is a critical tool that helps job seekers enter successful employment.

Detailed procedural guidelines are found in the On-the-Job Training Guidance Manual. This manual is updated as needed to reflect any necessary changes in the implementation of OJTs. Copies are available online at jfs.ohio.gov/owd/wioa/Docs/OJT-Procedures-Manual.pdf.

IV. Definitions

Comprehensive Case Management and Employment Program (CCMEP): An integrated intervention program that combines the Temporary Assistance for Needy Families (TANF) program and the WIOA Youth program to provide employment and training services to individuals ages 14 through 24.

Displaced homemaker: An individual who has been providing unpaid services to family members in the home and who:

1. Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment; **AND**
2. Has been dependent on the income of another family member, but is no longer supported by that income; **OR**
3. Is the dependent spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of Title 10, United States Code) and whose family income is significantly reduced because of a deployment (as defined in section 991(b) of Title 10, United States Code, or pursuant to paragraph (4) of such section); a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of Title 10, United States Code; a permanent change of station; or a service-connected (as defined in section 101(16) of Title 38, United States Code) death or disability.

Individuals with barriers to employment: A member of one or more of the following populations:

1. Displaced homemakers;
2. Low-income individuals;
3. Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in section 166 of WIOA;
4. Individuals with disabilities, including youth who are individuals with disabilities;
5. Older individuals;
6. Ex-offenders;
7. Homeless individuals or homeless children and youth;
8. Youth who are in or have aged out of foster care;
9. Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;

10. Eligible migrant and seasonal farmworkers;
11. Individuals within 2 years of exhausting lifetime TANF eligibility;
12. Single parents (including single pregnant women);
13. Long-term unemployed individuals; and
14. Such other groups the State determines to have barriers to employment.

Individual with a disability: An individual with a disability as defined in section 3 of the Americans with Disabilities Act of 1990, (42 U.S.C. 12102).

Homeless children and youth (section 725(2) of the McKinney-Vento Homeless Assistance Act): An individual who lacks a fixed, regular, and adequate nighttime residence and includes the following:

1. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
2. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
3. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
4. Migratory children who qualify as homeless because the children are living in one of the previously mentioned circumstances.

Homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994, 42 U.S.C. 14043e-2(6)): An individual who lacks a fixed, regular, and adequate nighttime residence and includes:

1. An individual who:
 - a. Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
 - b. Is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;
 - c. Is living in an emergency or transitional shelter;
 - d. Is abandoned in a hospital; or
 - e. Is awaiting foster care placement.
2. An individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or
3. Migratory children who qualify as homeless because the children are living in circumstances listed above.

Lead agency: The entity designated by the board of commissioners to administer CCMEP.

Low-income individual: As defined in section 3(36)(a) of WIOA, an individual who:

1. Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program (SNAP), temporary assistance for needy families (TANF), or the supplemental security income (SSI) or local income-based public assistance;
2. Is in a family with total family income that does not exceed the higher of:
 - a. The poverty line; or
 - b. 70% of the lower living standard income level.
3. Is a homeless individual;
4. Receives or is eligible to receive a free or reduced price lunch;
5. Is a foster child on behalf of whom State or local government payments are made; or
6. Is an individual with a disability whose own income meets the eligibility income requirement of paragraph (2)(b) above but who is a member of a family whose income does not meet this requirement.

On-the-job training: Training by an employer that is provided to a paid participant while engaged in productive work in a job that:

1. Provides knowledge or skills essential to the full and adequate performance of the job;
2. Is made available through a program that provides reimbursement to the employer of up to 50% of the wage rate of the participant, except as provided in section 134(c)(3)(H) of WIOA, for extraordinary costs of providing the training and additional supervision related to training; and
3. 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, as appropriate.

V. Participant Eligibility for an OJT

WIOA-funded OJT is available for eligible WIOA youth and unemployed or under-employed adult and dislocated workers. Employed workers may be eligible for WIOA-funded OJTs when the employee is not earning a self-sufficient wage as determined by the local workforce development area (local area). Participants who have completed occupational skills training via an individual training account (ITA) may be considered for OJT if it creates an opportunity for the participant to become employed.

As outlined in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-09.1, [Training Services for Adults and Dislocated Workers](#), WIOAPL No. 15-10, [Youth Program Services](#), and rule 5101:14-1-02 of the Administrative Code, training services may be provided to adults and dislocated workers or work experiences to youth participants if, after an interview, evaluation, or assessment and career planning, the participant has been determined to have the skills and qualifications to successfully participate in an OJT. WIOA/Comprehensive Case Management and Employment Program (CCMEP) in-school youth aged 14-21 years may qualify for OJT, although such work experience may not be an appropriate activity for in-school youth whose individual service strategy (in CCMEP, called the individual opportunity plan) may be geared toward completion of secondary or postsecondary education instead of employment.

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 conflicts of interest may arise.

VI. 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. Potential business functions to research before selecting an employer include but are not limited to:

1. Working conditions (safety and health);
2. Availability of employer-provided health benefits;
3. Wage structure – all on-the-job training positions must pay a minimum wage of \$12 per hour;
4. Turnover rates;
5. Adequateness of staff and equipment to carry out the training; and
6. Compliance with federal, state, and local laws.

Private Placement Agencies

A private placement agency may, if all required OJT criteria are met, be an eligible employer for WIOA-funded OJTs. Local workforce development areas must develop policy on OJTs with private placement agencies (e.g. OJTs in scenarios of "temp," "temp to hire" or continued long-term employment).

Refer to the [On-the-Job Training Guidance Manual](#) for factors to be considered before writing OJT agreements with a private placement agency.

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: <https://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. Local workforce development boards (WDB) or CCMEP lead agencies must require the businesses to disclose any known outstanding tax liabilities with Ohio and other states prior to entering into the contract. The local WDB or CCMEP lead agencies may consider existing out-of-state violations when determining eligibility to receive OJT funds. The local WDB or CCMEP lead agency must document any resolution of outstanding tax liability, which may include letters from the business or from the State from which the tax liability occurred.
3. Businesses must not have any outstanding civil, criminal, or administrative fines or penalties owed to or pending in the state of Ohio.
4. The WDB or CCMEP lead agency must not enter an agreement with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment.
5. The employer must comply with all applicable federal, state, and local laws and regulations related to providing reasonable working conditions. OJT participants are not permitted to train or work in buildings or surroundings under working conditions that are unsanitary, hazardous, or dangerous to the trainee's health or safety.
6. If during completion of the employer information form, it is determined that 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. Refer to the [On-the-Job Training Guidance Manual](#) for factors to be considered in determining whether business relocation has occurred.

To verify that a business is not relocating employment from another area, a pre-award review must be undertaken and documented by the local WDB or CCMEP lead agency. The review must include the names under which the establishment conducts business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is being sought about past or impending job losses at other facilities of their company. The pre-award review should also include a review of whether appropriate notices have been filed, as required by the Worker Adjustment Retraining Notification (WARN) Act. The review may also include consultations with labor organizations and others in the affected local area(s).

7. Absent a clear and applicable layoff definition within a collective bargaining agreement or personnel policy governing a local operation, a layoff is defined as termination with the intent to recall. A laid off employee who refuses a recall request is no longer considered to be in layoff status. Layoff recall rights will last six months from the last day of work prior to the layoff.

If the employer has laid off someone from 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. If more than one person is laid off from a substantially equivalent job, and all these persons worked their last day more than six months before the training plan begins, the OJT may proceed and the employer may be reimbursed regardless of the previous layoffs.

8. Training positions covered may not have been created by the displacement of an unsubsidized employee by a WIOA subsidized employee. This includes partial displacement such as reduction in the hours of non-overtime work, wages, or employment benefits. There is no requirement for the job to be similar or substantially equivalent. The key is employer intent: if an unsubsidized employee's earnings are reduced by hiring a WIOA subsidized participant to offset the lost productivity, it is considered displacement.

Prohibited OJT Activities

The following types of activities are prohibited from OJTs:

1. 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. Furthermore, OJT participants may not assist, promote, or deter union organizing, or engage in political activities during work hours.

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

VII. Maximum Duration of OJTs

The duration of the OJT shall not exceed a maximum of 1,040 hours unless extenuating circumstances exist, in which case appropriate documentation is required. The length of the training considers several factors such as the participant's skills gap including prior work experience, the occupation for which the participant is receiving training, the content of the training, and the service strategy of the participant.

Exceptions for individuals with disabilities or other significant barriers: OJT participants facing a significant barrier to employment, such as a disability covered under the Americans with Disabilities Act (ADA), may be considered for a longer training duration of up to 50% more hours than the typical length of a similar OJT, not to exceed a maximum of 1,560 hours.

Every registered apprenticeship program includes a structured OJT. Companies hire apprentices and provide hands-on training from an experienced mentor. This training is developed by mapping the skills and knowledge the apprentice must learn over the course of the program to be fully proficient at the job. Therefore, registered apprenticeships are time-based and require a specific number of hours of OJT. Consequently, OJTs with longer duration, not to exceed 2,080 hours, may be used when the OJT is completed as part of the registered apprenticeship program.

VIII. Coordination with Trade

If an individual is eligible for training dollars under Trade Adjustment Assistance (TAA), TAA should be used to fund the OJT. An exception would be situations where the cost exceeds the TAA program's ability to fund the training; WIOA funds can pay the portion of the cost that exceeds the TAA maximum.

If a participant is already enrolled in a WIOA-funded OJT and subsequently becomes eligible for funding through TAA, the local area must determine whether to continue funding the OJT with formula dollars or to fund the remainder of the training with TAA funds based on the following criteria:

1. If the WIOA-funded OJT uses a different wage reimbursement rate than the Trade program's OJT policy allows, the participant's OJT may continue to be funded by formula dollars until completion;
2. If the WIOA-funded OJT uses a different payment point than the Trade program's required OJT payment point, the participant's OJT may continue to be funded by formula dollars until completion;
3. If the WIOA-funded OJT uses the same wage reimbursement rate and payment point as the Trade program OJT, the local area must plan for the

remainder of the OJT to be funded by TAA beginning at the next payment point. Local areas must coordinate with Trade staff to develop a plan for transitioning participants from one funding stream to another without negatively affecting the employer or the participant.

Regardless of whether participants remain in the WIOA-funded OJT or transition to TAA funding, it is required that the participant be co-enrolled in both the WIOA-funded OJT and Trade programs and that the OJT be approved under both programs (even if it is being fully funded by formula dollars) to ensure the participant may qualify for other associated Trade benefits and services.

IX. Employer Reimbursement

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

The Area 20 WDB will reimburse employers up to \$8,500 per participant (not including supportive services). Supportive services are limited to \$2,500 per participant. There is no restriction on the number of participants per employer; however, all reimbursements will be contingent upon funding awarded to Area 20 subareas.

The reimbursement base is regular "straight time" hours and does not include commissions, overtime pay, holidays, vacation, sick pay, or pay for other hours not worked. Further, payments to employers must be based on scheduled raises and regular pay increases if they occur.

CCMEP lead agencies will follow these policies and procedures pertaining to payment points.

X. Use of OJT Forms

1. Employer Information Form (Pre-Award Review)

Prior to the placement of an OJT participant, an employer pre-screening must be conducted and On-the-Job Training Employer Information Form must be completed to ensure that the employer meets the minimum standards and can provide both training and long-term employment to the OJT participant. The On-the-Job Training Employer Information form may be completed once rather than each time an OJT is approved.

In case of a collective bargaining agreement, the On-the-Job Training Employer Information form must indicate this, and the employer must provide a letter from the union indicating union concurrence before the OJT begins. The WIOA staff at

the local area or CCMEP lead agency staff is expected to contact the employer's union representative if the job is under bargaining unit authority.

The On-the-Job Training Employer Information form must be updated:

- a. If the business is sold or transferred;
- b. If other significant changes affecting training, hiring, or job retention occur; and
- c. At least once a year from the date of issuance.

2. OJT Agreement

One On-the-Job Training Agreement is required per employer regardless of the number of participants trained or hired. The agreement may be effective for a maximum period of one year and cover all training plans approved with the employer prior to the On-the-Job Training Agreement's expiration date.

The OJT agreement, while establishing the reimbursement procedures, remains non-financial in nature, and no money is obligated until the training plan is approved for an eligible participant. Moreover, in case a collective bargaining agreement exists, the employer shall obtain a letter of concurrence to the OJT agreement from the union and provide it to the local area.

The OJT agreement should be modified before expiration only if there are significant changes, such as layoffs or changes in federal, state, and local rules and policies pertaining to the implementation of OJTs.

3. On-the-Job Training Plan

The On-the-Job Training Plan obligates training or work experience funds for a participant and outlines the planned training activities to be accomplished during the training period. Unlike the OJT agreement, the training plan is required for each participant. The On-the-Job Training Plan constitutes the financial obligation between the agency or service provider and the employer and is the document which authorizes reimbursement of the agreed upon amount after successful completion of the training plan period.

The On-the-Job Training Plan also identifies the skills to be learned during the OJT. OJT providers may base the identification of skills needed, as well as the justification of training duration, upon the Occupational Information Network (O*NET) and specific vocational preparation (SVP), company job description, input from the employer/supervisor, and/or other appropriate data sources.

4. Invoice

Payments to employers should be managed by an invoice system that documents the number of hours worked by the OJT participant and the hourly rate of pay.

During the WIOA-funded OJT, participants might also become eligible for other funding streams, such as Trade Adjustment Assistance (TAA), that would preclude their receiving continued funding under the OJT. In such an instance, refer to the Funding Transition Form regarding payment points and transitioning participants from one program to another without negatively affecting the employer or the participant.

It is expected that OJT participants will be retained at the completion of training.

5. Exception Request Form (if applicable)

There are times when an OJT participant or work conditions may justify an exception to the original training plan. Possible exceptions or modifications to an OJT may include:

- a. Extending the agreed upon length of OJT duration if the mandated maximum number of hours are not exceeded;
- b. Adjusting the maximum or minimum number of hours/week to accommodate a participant's learning or other disability if mandated maximum number of hours are not exceeded;
- c. Allowing employer reimbursement for training, even when the participant fails to complete the training, if the participant quit or was fired for just cause; and
- d. Consideration for OJT participants who are performing satisfactorily, have completed substantial training and will be retained by an employer at the end of the training period, but have not learned all the requisite OJT-related skills.

Generally, consideration of high turnover jobs should be avoided. In certain situations where the return on investment or potential earning may warrant or the needs of a specific participants are reasonable, such opportunities may be the subject of negotiation.

All exceptions must be documented on the On-the-Job Training Exception Request before the end date of the training plan. Also, exceptions must be documented in the participant's case notes. All plan modifications must be documented on the On-the-Job Training Plan Modification, which must be documented in the participant's case notes.

XI. Monitoring

Case managers must:

1. Document information received directly from the OJT participants;
2. Obtain the trainee supervisor's perspective about the training progress; and
3. Review the employer payroll records.

The key monitoring issues include verifying and documenting that:

1. There was a need for training;
2. Training was provided to the participant;
3. The length of OJT training was reasonable;
4. The employer reimbursement rate complied with policy; and
5. Other applicable OJT rules and requirements were followed.

Additionally, through the state's monitoring system, program monitors, and auditors will review the implementation of WIOA OJTs, including participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state's monitoring resolution process.

XII. Reporting

All participants must be eligible, enrolled in WIOA, and entered in the state's workforce case management system pursuant to rule 5101:9-30-04 of the Administrative Code within 30 days. Participants may also be co-enrolled in other state-funded WIOA programs.

XIII. WIOA References

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

20 C.F.R. §§ 680.700-680.750, and 683.275.

2 C.F.R. Part 200, Appendix II.

O.A.C. 5101:9-30-04 and 5101:14-1-02.

USDOL, Training and Employment Guidance Letter No. 19-16, Guidance on Services provided through the Adult and Dislocated Worker Programs under Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Services (ES), as amended by Title III of WIOA, and for Implementation of the WIOA Final Rules, (March 1, 2017).

USDOL, Training and Employment Guidance Letter No. 13-16, Guidance on Registered Apprenticeship Provisions and Opportunities in the Workforce Innovation and Opportunity Act (WIOA), (January 12, 2017).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-22.1, On-the-Job Training (OJT) Policy (January 22, 2018).