

# **WIOA OJT Procedural Guidance**

## **ATTACHMENT A**

### **A. General Provisions**

1. On-the-Job Training provided with WIOA funds must serve WIOA eligible individuals only. If utilizing OJT, local areas must only use that specific source of WIOA funding appropriate for the particular WIOA-eligible population to be served. WIOA Adult funds may be used for low-income adults, WIOA Dislocated Worker funds for dislocated workers and WIOA Youth funds for low-income, training-eligible youth. WIOA Adult or Dislocated Worker funds may be used for a youth who qualifies as either an adult or dislocated worker, respectively as long as the individual youth is registered in said WIOA program in MOSES.
2. On-the-Job Training may not be used for a position for which the participating employee/trainee must pay a fee as either a condition of hiring or of retaining employment after successful completion of training.
3. On-the-Job Training may only be undertaken for a full-time position as determined by a review of work schedules considered the “full-time” standard for said position by the employer and other employers within the same industry for the local area, but in no case for a position of less than 32 hours per week. OJT positions must not be temporary, intermittent or seasonal.
4. All On-the-Job Training must be conducted under the terms of a formal, written contract (Attachment D) with the participating employer. A separate OJT contract must be executed for each individual trainee.
5. On-the-Job Training may not be contracted with any employer engaged in a work stoppage or labor dispute. Employers must assure that OJT funds will not be used to assist, promote or deter (either directly or indirectly) union organizing.
6. The terms of the OJT contract cannot violate the terms of a collective bargaining agreement if one is in effect. If a collective bargaining agreement is in effect, written agreement that the training plan does not conflict with a current bargaining agreement must be obtained from the representative labor organization and must be attached to the signed contract form.
7. On-the-Job Training may not be contracted with an employer that has either reduced the workforce with the intention of filling the vacancy with the individual receiving training under the OJT contract or displaced a currently employed worker as a result of the OJT contract.
8. The OJT employer must assure that it will compensate the trainee at a rate that is, at the very minimum, consistent with either the federal or state minimum wage rate, whichever is higher, but must also be comparable to the compensation rate for the employer’s regular workers in the same occupation and possessing commensurate skills and experience. OJT trainees must receive the same workers’ compensation coverage and benefits package as regular employees of comparable tenure and experience employed in the same or similar position.

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9. OJT contracts may not be executed with an employer (or on behalf of an employer) that has exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages, 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.
10. An OJT contract is limited in duration as appropriate to the occupation for which the participant is being trained. In determining the appropriate length of the contract, consideration should be given to the OJT Trainee's skill gap in relation to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan (Attachment C.).
11. The employer must provide the local area with a current [Massachusetts Certificate of Good Standing and/or Tax Compliance](#). The certificate must be dated no earlier than 6 months prior to the start date of the OJT. The employer must request the Certificate from the MA Department of Revenue (Attachment I).
12. The participating OJT employer must be compliant with all tax requirements of the Commonwealth of Massachusetts including, but not limited to compliance with requirements regarding the Department of Unemployment Assistance (DUA).
13. The participating OJT employer must not be debarred from conducting business with the Commonwealth of Massachusetts or the federal government.
14. An OJT contract may not be executed with an employer that has relocated from one location to another until 120 days after the date on which the employer commenced operations at the new location if the relocation resulted in layoffs at the original location.
15. Prior to executing an OJT contract with a prospective employer, the local area must assure that all employer eligibility requirements are met by completing the Employer Eligibility Checklist (Attachment B).
16. The OJT monitoring should be based on the length of the contracted training at a frequency commensurate with the complexity and duration of the OJT. An example of an appropriate monitoring schedule might be: two (2) monitoring reports (Attachment H), including one (1) on-site visit for training of less than six (6) months duration; for training of six (6) months to one year duration, a minimum of three (3) monitoring reports, including two (2) on-site visits; for training lasting fifteen (15) months or longer, a minimum of four (4) monitoring reports, including three (3) on-site visits.  
  
In addition to required monitoring activity, monthly progress reports (Attachment G) for each OJT must be completed by the participating employer and submitted for review.
17. At a minimum, the contract scope of service must identify the trainee, the occupation, the skills and competencies to be learned (including required certifications), the length of time the training will be provided, the percentage and total amount of reimbursement to the

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employer for the extraordinary costs of providing the training, and a schedule for monitoring training progress.

18. An OJT contract may not be executed for any individual laid off from the same job for which an OJT contract is being developed.

#### **B. OJT Payments to Employers**

1. OJT payments are deemed to be compensation for the extraordinary costs associated with training participants and the costs associated with the lower productivity of the participants.
2. Under the statutory requirements of WIOA employers may be reimbursed up to 50 percent of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT.
3. Employers are not required to document the extraordinary costs associated with providing OJT.
4. Employers may receive wage reimbursement described above while the training participant is actively engaging in OJT. Paid leave, such as holidays, sick time, and personal time, as well as overtime worked above the employer's standard work week, *are not eligible* as part of the OJT wage reimbursement calculation. Employers, however, are obligated to pay training participants a wage and rate (including paid leave such as described above) commensurate with other employees working in a similar capacity and with comparable tenure at that employer.

#### **C. Reverse Referral**

Under certain circumstances OJT initiated through "reverse referral" may be permitted. Reverse referral occurs when an individual is referred to the career center from a prospective employer (under either formal or informal agreement) for assessment as to whether or not the individual meets the employer's hiring requirements for a specific position. Development of an OJT for an individual referred by the employer may be permitted only when:

- the individual progresses through the intake process as would any other career center customer and meets all requirements for eligibility as specified in this policy;
- the completed case plan indicates training is necessary for the individual to perform the work associated with the position for which the employer has an opening to fill;
- the employer meets all of the eligibility requirements under this policy; and
- the employer provides assurance that the individual has not previously been employed by the employer in the same or similar position.

#### **D. OJT for Employed (Incumbent) Workers**

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OJT contracts executed on behalf of eligible employed (incumbent) workers must meet all the provisions described above.

- **On-the-Job Training for Incumbent Workers Funded with Local Formula Funds**
  1. Use of WIOA Adult funds is restricted to serving low-income adult incumbent workers. The local board may reserve and use not more than 20 percent of the funds allocated to the local area involved under section 133(b) to pay for the Federal share of the cost of providing training through a training program for incumbent workers, carried out in accordance with this paragraph. (sec. 134 (4)(A));
  2. Incumbent worker training should be part of a lay-off aversion strategy specifically described in the scope of work;
  3. All delivered training is restricted to skill attainment activities; and
  4. Performance outcomes for individuals must be reported in Participant Individual Record Layout (PIRL) report.
- **On-the-Job Training for Incumbent Workers Funded with Rapid Response Funds**
  1. Incumbent worker training must be part of a lay-off aversion strategy;
  2. All delivered training is restricted to skill attainment activities; and
  3. Performance outcomes for individuals must be reported in PIRL.

### **E. OJT Funded with Resources Other Than Locally Allocated WIOA Funds**

Specific requirements of funding sources other than a local area's annual WIOA allocation must be incorporated and/or added to the general OJT requirements iterated in this policy. Such requirements will be designated in separate notice specific to the implementation of any other funding sources that may be used for OJT.