

MASSACHUSETTS WORKFORCE DEVELOPMENT SYSTEM

MassWorkforce Issuance

100 DCS 06.102

☒ **Policy** ☐ **Information**

To: Chief Elected Officials
Workforce Board Chairs
Workforce Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Operations Managers

cc: WIOA State Partners

From: Alice Sweeney, Director
Department of Career Services

Date: February 29, 2016

Subject: **On-the-Job (OJT) Wage Caps and Reimbursement Rate Waivers for Job Driven, Dislocated Worker Training, and Sector Partnership National Emergency Grants (NEGs)**

Purpose: To notify Local Workforce Boards, One-Stop Career Center Operators and other local workforce partners of guidance through the Department of Labor (DOL) Employment and Training Administration (ETA) Training and Employment Guidance Letter ([TEGL No. 13-15](#)), released February 23, 2016, regarding On-the-Job (OJT) Wage Caps and Reimbursement Rate Waivers for Job Driven, Dislocated Worker Training, and Sector Partnership National Emergency Grants (NEGs).

Background: Through this guidance, DOL is providing updated hourly State Wage Cap data for OJT under the Workforce Innovation and Opportunity Act (WIOA). DOL is also providing guidance on the transition of funds from the Workforce Investment Act (WIA) to WIOA as it relates to the OJT wage cap reimbursement rate.

In order to continue implementation prior to the final rule (from the Notice of Proposed Rulemaking (NPRMS) documents with Final WIOA rules issued in 2016), a series of WIOA Operating Guidance documents are being issued in the

form of TEGs. These Operating Guidance documents on WIOA will inform the workforce system on how to begin the important planning and organizational work necessary to comply with the WIOA statutory requirements. The TEGs will provide a framework for program activities until the regulations are finalized.

Policy: The DOL/ETA previously established a wage cap policy for OJT reimbursement in [TEGL 4-10](#), which was originally applied to the OJT NEGs as a part of the American Recovery and Reinvestment Act (ARRA), announced in Training and Employment Notice [\(TEN\) 38-09](#). This wage cap policy was continued under the 2013 Dislocated Worker Training (DWT) NEGs, the 2014 Job Driven (JD) NEGs, and the 2015 Sector Partnership (SP) NEGs, and will remain in place through the end of these grants.

State Wage Cap – ETA has established a wage cap policy for these grants not to exceed 50 percent of the participant’s wage rate or the ETA established wage cap. This is consistent with section 3(44) of WIOA. However, section 134(c)(3)(H) of WIOA allows State and Local areas the flexibility to increase the reimbursement level up to 75 percent taking into account the following factors:

- Characteristics of the participants;
- Size of the employers;
- Quality of employer-provided training & advancement opportunities; and
- Other factors the State or local boards may determine appropriate (for example, the number of employees participating in the training, wage and benefit levels of the employees (both pre and post participation earnings), and the relation of the training to the competitiveness of the participant).

This limitation on the training reimbursement provides grantees with latitude in the type of occupations that can be targeted, while maximizing the number of OJT opportunities. Grantees may enter into contracts with employers who elect to pay participants more than the state average wage; however, the employer cannot receive a training reimbursement beyond the percentage (determined by the sliding scale) of the capped level.

The average hourly wage rate for each state is provided by the Bureau of Labor Statistics in the [Quarterly Census of Employment and Wages](#). **The 2014 Average Hourly Wage Rate for Massachusetts is \$27.70.**

Employers are required to compensate OJT participants at the same rates as trainees or employees who are situated in similar occupations by the same employer and who have comparable training, experience, and skills (WIOA Sec. 181(a)(1)(A)).

Transition of Funds and Waiver Applicability – The transition of OJT wage reimbursement requirements from WIA to WIOA is consistent with [TEGL 38-14](#), which describes the transition of participants, funds, and sub-recipient contracts

from WIA to WIOA. For PY 2013 and 2014 funds that are already obligated as of June 30, 2015, grantees may liquidate those obligations in compliance with WIA requirements in place before WIOA was enacted. PY 2013 and PY 2014 NEG funds that have not been obligated by grantees in PY 2013 and PY 2014 (i.e. “carry-in” funds) are subject to WIOA, effective July 1, 2015. This means that the funds will assume the requirements of those portions of WIOA funds that were effective July 1, 2015.

Consistent with [TEGL 1-15](#) this means that, in general, WIA funds flexibility waivers (such as the waiver allowing for sliding employer reimbursement scale for OJT training) will follow these same guidelines, and therefore they do not apply to unobligated PY 2013 and PY 2014 funds, which are subject to WIOA requirements effective July 1, 2015. The transition authority in WIOA Sec. 503(b) permits the Department to allow the states that received the 2013 DWT NEG and the 2014 JD NEG to use the reimbursement level established in the grant agreements, even if this rate is higher than the rate permitted under WIOA, in order to prevent a significant disruption to these grants.. Therefore, recipients of these grants can use these higher OJT reimbursement rates for the obligated and unobligated PY 2013 and PY 2014 funds. **This flexibility regarding OJT reimbursement rates is limited to DWT NEGs and JD NEGs and does not apply to the SP NEGs.**

Action

Required: Please distribute this information to all appropriate state and local officials, including local workforce board chairs, administrative entities, chief elected officials, and One-Stop Career Centers (American Job Centers).

Effective: Immediately

Inquiries: Please email all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.