



POLICY: ON THE JOB TRAINING

EFFECTIVE DATE: **POLICY NUMBER: 2019-9**

PURPOSE

The basic purpose of an On-the-Job Training (OJT) as described by the Workforce Innovation Opportunity Act (WIOA) is to encourage public, private non-profit or private employers to hire an individual, or upgrade an eligible employed worker, who would not otherwise qualify for the job and to teach the skills requisite to perform the job. The activity is based upon a contractual exchange between the employer and the WorkSource Montgomery (WSM) America's Job Center (AJC) Service Provider. The WSM AJC WIOA Service Provider provides the Employer with a partial wage reimbursement for an agreed-upon training time period in exchange for the provision of training by the Employer and a commitment to retain the individual when the training is successfully completed.

BACKGROUND

WIOA provides resources, services and leadership tools for the workforce system to help individuals find and maintain good jobs and improves employer prospects for success in the global market place. WIOA Title I provide authority for three programs: Adult, Dislocated Workers and Youth programs.

CANCELLATIONS

This policy supersedes all pre-existing policies for OJT.

ACTION REQUIRED

Within 15 days of the receipt of this policy it is the recipient's responsibility to ensure all staff are informed of the policy and to create an internal process to ensure accountability.

QUESTIONS

Questions relating to this policy should be directed to the Director, Talent Development / WIOA at policy@worksourcemontgomery.com, or 240-641-6736.

POLICY

OJT is a strategic employment service that supports the business community in their hiring process by adding staff capacity, productivity and training at reduced costs to the employer and is an excellent vehicle for eligible job seekers to build their skills and re-establish their employment status. The employer designs the on-site training. The training is aligned with the skills required for the job and is a long-term investment in the company. OJT is a hire-first training program. The trainee is a full-time employee and the employer has agreed to provide training.

WSM defines full-time employee as that equal to and no less than 37 hours per week. During the course of the OJT, the Trainee must be treated as a full-time employee and should receive wages and benefits at the same level as similar employees.

OJT is not a subsidized employment program. It is important to differentiate OJT from subsidized employment programs, Customized Training and other incumbent worker supported training programs.

Need for Training

The assessment process is used to substantiate that each Trainee has a need for the training that is to be provided and has the capability to benefit from this training. The decision to assign a participant to OJT should be based on consideration of the individual's employability skills, skill deficiencies, and interests. WSM AJC Career Advisors will utilize assessment tools such as, but not limited to, CASAS, Onetonline, Privet, WorkKeys, Skilldex, and Career Scope, to determine appropriateness of the training. If job seeker has a bachelor's degree, this will not be required.

The initiation of an OJT for an unemployed participant is only considered at which time the Trainee:

- Has identified interests and aptitudes that match the prospective training;
- Has expressed an occupational preference based upon sound and current labor market information;
- Understands and/or exhibits the attitudes and behaviors that Employers require;
- Has basic work readiness and occupational skills to learn the job for which the Trainee is being hired;
- Has an updated resume, cover letter and/or portfolio and references
- Has basic skills
- Has reliable transportation

- May have an established work history
- Possesses sufficient skills to meet the minimum industry standards for the OJT Employer.

Appropriateness of OJT

The emphasis on training automatically eliminates all jobs that require no more than a brief initial orientation period. Similarly, because reimbursements are intended to compensate the employer for decreased productivity, jobs that pay by commission or piecework are generally considered inappropriate. Additionally, seasonal, temporary and part-time jobs should likewise be avoided because the desired outcome of OJT is long-term retention and full-time employment that leads to self-sufficiency.

OJT can also be inappropriate for a variety of other reasons. As with consideration of any participant for a training service, the potential Trainee should generally possess at least the threshold level of basic work readiness skill proficiency to ensure the possibility of success. Placement into OJT before a Trainee is ready can negate earlier achievements and undermine motivation and self-confidence. Additionally, the placement of Trainees who fail to meet basic employer expectations will diminish the credibility of the WSM AJC within the business community.

Eligibility

Trainees who are eligible for OJT must meet program eligibility requirements for each funding source, i.e. WIOA Adult, Dislocated Worker, Youth, state set-aside, National Emergency Grants (NEG), or Trade Act eligible.

WSM's AJC Career Advisors will counsel participants about the importance of training in a field in which they have potential for achieving full and adequate employment and self-sufficiency. Career Specialists will coach participants who choose OJT that it should not be considered a "stop gap" employment solution. OJT must be developed from the objectives for occupational skills outlined in the IEP and, whenever possible, aim at starting a career with pathways that will lead to potentially higher skills and higher wages.

OJTs should be approved for positions included in WSM's High Priority Industries. These industries are listed on WSM's website. WSM's workforce development strategy targets education and training investments in High Priority Industries. If a potential occupation is not on the local demand list, WSM's AJC Business Service Representatives (BSRs) / Account Managers may ask the prospective employer for industry information that may assist in determining the future-prospects of the

occupation and career ladders. The WSM Career Advisors may approve training if the worker may be well served through OJT, despite lack of an official listing as a demand occupation based upon wage and career pathways, upon prior approval of WSM Board of Directors.

Training services may be made available to employed and unemployed adults, dislocated workers, and youth who:

- Have met the eligibility requirements of receiving career training services and have been determined to be unable to obtain or retain employment through services;

WSM's criteria for determining whether employment leads to self-sufficiency (note: there are separate definitions of self-sufficiency for older youth (18-24), adults and dislocated workers):

Adult Self-Sufficiency — 2017 Poverty Income Guidelines or the 2017 70% lower living standard income level - which is ever is higher (based on family size) and availability of family health insurance benefits and not receiving public assistance, to include housing, transportation, childcare, or food stamps.

Dislocated Worker Self-Sufficiency — 80% of previous compensation level and availability of family health insurance or Adult Self-Sufficiency definition, whichever is higher.

- After an interview and assessment, a case management team must determine the following for appropriateness of an OJT:
 - Does the participant need to learn skills for the desired position, or have those skills already been acquired?
 - Does the participant have a need for training?
 - What is the best way for the individual to obtain the skills needed? (i.e., OJT or occupational skills training)?
 - Can the position be obtained at this company without the OJT Training? If a need for OJT cannot be documented, a direct placement or referral to other services should be considered. If a need for OJT has been determined and recorded on the IEP, a referral may be made to appropriate employers.
 - Is this participant likely to succeed in training?

Additionally, OJT candidates must:

- Have identified interests and aptitudes that match the prospective training;
- Have expressed an occupational preference based upon sound and current labor market information;
- Have sufficient basic work readiness and occupational skills to learn the job for which the Trainee is being hired;
- Has an updated resume, cover letter and/or portfolio and references;
- Has basic skills;
- Has resolved or has plans to resolve such employment barriers as transportation, child care, housing, health, or other barriers that can prevent successful OJT participation;
- May have an established work history;
- Possesses sufficient skills to meet the minimum industry standards; and
- May have obtained relevant training and certifications.

Trainee Assessment

Timely assessment of the applicant's interests, attitude, skills, and abilities will work to the benefit of the business. Similarly, the applicant's best interest is also served by avoiding the failure that will inevitably result from a hasty and inappropriate placement.

Documenting Need- Individual Employment Plan (IEP)

The decision to place a participant into an OJT must be based upon a documented assessment of the participant's skills, knowledge, attitudes, and behaviors. An individual may be placed into an OJT only when assessment, testing, and/or individual counseling indicate a need for and ability to benefit from the training specified in the OJT agreement.

The IEP documentation of a participant's appropriateness for OJT is required prior to referral to an Employer for OJT placement.

Identification of an OJT as an appropriate service must be clearly documented on the participant's Individual Employment Plan. The IEP is an ongoing strategy jointly developed by the participant and the Career Specialist that identifies the participant's employment goals, the appropriate achievement objectives, and the appropriate combination of services for the participant to achieve the employment goals. The IEP must also identify potential supportive services the participant may need to successfully participate in the OJT. This is no different

than the processes used to determine any participant's ability to benefit from training services – an OJT is simply another training vehicle.

The IEP must include, at a minimum, the following elements:

- Participant name
- Date plan was initiated
- Current/prior educational status
- Current/prior work history and experience
- Assessment of participant's skills and interests
- Assessment results for basic math and reading skill levels and aptitudes
- Short-term and long-term educational and occupational goals
- Identification of barriers to employment that hinder the participant's ability to find and maintain unsubsidized employment
- A plan of action to overcome barriers to employment to include specific services that the participant will receive from the WIOA Service Provider or another provider
- Determination of the participant's supportive service needs
- Post-program follow-up needs
- Participant and WIOA Service Provider signature and date

The information on the IEP should have back-up documentation. This may include copies of the various testing and assessment materials given to the participant. Career Advisors are required to keep the IEP updated. Case notes must be used to document the IEP process and entered in the Maryland Workforce Exchange (MWE) database. Career Specialists must regularly review each participant's progress in meeting program and service strategy objectives every 30 days, including the participant's acquisition of basic/occupational skills and the adequacy of supportive services provided as related to OJT.

Currently Employed Workers; Upgrades

A currently employed worker may be placed into an OJT with the same Employer only when the following criteria are met:

- The employed worker meets WIOA eligibility, *and*
- The employee is not earning a self-sufficient wage, *and*
- The OJT relates to the introduction of new technologies, introduction to new production or service procedures; *or*
- The OJT supports the acquisition of new skills necessary for upgrading to a new job that require the additional skills, *or*
- The OJT provides training in the required workplace literacy, *or*
- The Employer continues meets OJT Employer requirements.

Providing OJT's to employed workers is different than "Incumbent Worker" training through WIOA. An incumbent worker is an individual who is employed, but an incumbent worker does not necessarily have to meet the eligibility requirements for intensive and training services for unemployed adults and dislocated workers. An OJT candidate must meet these eligibility requirements. In the circumstance where the Employer proposes to upgrade the employee by training for a job that requires substantially different or higher-level skills, the current employee must also, as a result of successfully completing the OJT:

- Expect a wage gain by the end of the training period commensurate with incumbent positions; or
- Expect an upgrade to a new position.

The Employer will be encouraged to "backfill" with a new hire for the employee's previous position through the WSM AJC Provider or when training is complete.

Employer Referrals/Recruitment

An Employer may sometimes refer an applicant for a vacant position in order to determine whether the applicant is eligible for WIOA and appropriate for training through an OJT Training Plan. This practice is allowed under WIOA. WSM BSRs should assess the circumstances to determine whether an OJT is appropriate in the same way they would assess an individual participant.

All OJT Job Orders must be entered into the MWE database and the participating employer must also be registered.

Upon completing this assessment, an applicant who is referred to WSM by an employer can be registered into an OJT only after eligibility for WIOA has been verified and after the assessment process has documented a need for and ability to benefit from the training offered by the employer. Documentation of discussions with the referring Employer can best provide this information.

Unfilled demand for skilled workers by an Employer or among a group of Employers may result in a targeted effort by WSM BSRs to recruit appropriate OJT Trainees. Candidates may be identified through a multitude of systems to include Employer relationships, from a pool of applicants who have not yet enrolled into the program, or among participants who are receiving services beyond self-service.

Qualifying the Business

Employers who qualify for OJT must not have a pattern of failing to provide OJT participants with continued long-term employment with 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. Employers within Montgomery County will have priority but this does not exclude employers outside the Montgomery County limits.

The Contracting process begins with a systematic exchange of information between the prospective Employer and the WSM BSR. The BSR must make an on-site visit to the interested Employer to:

- Explain the program;
- Learn about the business;
- Identify and describe the job(s) to be filled;
- Observe the work setting and environment; and
- Review the administrative systems and the business' capacity to insure fiscal integrity.

If the initial discussion indicates that the business may be appropriate for an OJT, it is necessary to gather and record detailed information that insures that the business can comply with the required administrative standards, in effect to "qualify" the business for OJT services.

The process entails an interview with the owner or manager, inspection of documents or forms, and observation of the premises and work setting. Additionally, the requirements of the OJT Agreement (which include descriptions of appropriate Federal, State & Local Policies, Rules & Regulations – websites can be cited), and the Training Plan should all be discussed with the Employer.

The information that is gathered is summarized, recorded and maintained in the Employer's OJT file. The purpose of this process is to determine whether:

- The business is legitimate and furnishes its Federal Employer Identification Number (FEIN);
- The OJT Employer is registered with the Internal Revenue Service and has an account for Unemployment Insurance and carries Workman's Compensation Insurance;
- The business is financially solvent;

- The OJT Employer has adequate payroll record keeping systems that track hours worked, gross pay, deductions, and net pay. (The OJT Employer is precluded from paying OJT participants in cash);
- The OJT site has necessary equipment, materials, and supervision to provide adequate training;
- Successful training will provide a long-term job; the OJT Employer forecasts sufficient work to provide long-term regular employment for the OJT participant;
- The business's turnover rate is reasonable;
- The OJT site has safe and healthy working conditions, without previously reported health and safety violations that have been reported but have not been corrected. (Note that WSM BSRs should be attentive to this issue during the initial visit - and subsequent visits - to the training site and should inquire about safety records and inspections. The BSR is not an OSHA inspector, however, and is only expected to question reasonably apparent potential hazards.)
- To the extent that the State Workers' Compensation law applies, Workers' Compensation must be provided to OJT employees on the same basis as the compensation provide to other individuals in similar employment;
- The rate of pay, fringe benefits, periodic pay increases, and working conditions offered to the Trainee are the same as similarly situated employees in similar positions by the same Employer and who have similar training, experience and skills. Such rates must be in accordance with applicable law, but may not be less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law;
- OJT employees are provided benefits and working conditions at the same level and to the same extent as other Trainees or employees working a similar length of time and doing the same type of work.
- The OJT Employer does not illegally discriminate in training or hiring practices because of race, color, sex, national origin, religion, physical or mental handicap, political beliefs or affiliations, or age;
- An OJT Agreement must not impair existing contracts for services or collective bargaining agreements. When an OJT Agreement would be

inconsistent with a collective bargaining agreement, the appropriate labor organization and Employer must provide written concurrence before the OJT can begin;

- The OJT Agreement would not assist, promote or deter union organizing;
- The business is not involved in a labor dispute, has employees in layoff status, or is in violation of Davis-Bacon Act labor practices that govern prevailing wage rates for government construction contracts;
- The OJT Agreement would not displace any currently employed worker (including partial displacement such as reduction in non-overtime hours, wages, or benefits) or infringe upon the promotional opportunities of any current employee. Regular employees and program participants alleging displacement may file a complaint through WSM's Customer Complaint and Grievance policy;
- No individual is on layoff from the same or any substantially equivalent job; the Employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the Employer with the intention of filling the vacancy so created with an OJT participant; or the job is not created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation);
- The OJT does not encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States unless 120 days have lapsed since the date on which such business commences operations at the new location;

The OJT Service Provider must determine if a relocation results in any employee losing his or her job at the original location, since WIOA funds may not encourage or induce a business, or part of a business, to relocate from any location in the United States. If an employee has lost his or her job at the original location, no OJT or Customized Training funds can be used at the new location until the business has operated at the new location for 120 days.

To verify that an establishment which is new or expanding is not, in fact, relocating employment from another area, standardized pre-award

review criteria must be completed and documented as a prerequisite to WIOA assistance.

1. The review must include the names under which the establishment does business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is sought regarding past or impending job losses at other facilities, including a review of whether WARN notices relating to the Employer have been filed.
 2. The review may include consultations with labor organizations and others in the affected local area(s);
- The OJT training does not involve the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship;
 - The OJT Employer is not a Casino or other gambling establishment, zoo, swimming pool, aquarium or golf course (see high demand occupation clarification referenced in the Local Plan).
 - The OJT placement may only occur in a private, for-profit or non-profit sector, i.e. no public sector placements.
 - The prospective OJT Employer meets the existing “pattern of failure” requirements; and
 - No fee has been charged to the participant to be referred or placed into the OJT training position.

In the event that any of the above circumstances exist, further discussion with the Employer and appropriate documentation of issue resolution is needed to determine if the business can be qualified as an OJT Employer. Documentation must be placed in the Employer's file.

Conflict of Interest

No grantee, Contractor, sub-grantee, or sub-contractor will engage in any conflict of interest, real, implied or apparent, in the selection, award or administration of a WIOA funded Contract or grant. OJT Contracting must be conducted by training professionals and Employers in a manner that is objective and independent of personal interests. A business or organization represented on the WSM's WDB may employ OJT workers if the same standards

for selecting OJT Employers who are not members of the WDB are applied, and the WDB member does not participate in the process to select OJT Employers.

Funding Limits

WSM has established a “Life-time” individual training funding cap of \$10,000.

- Reimbursement up to 90% for a business with 50 or fewer employees
- Reimbursement up to 75% for a business with 51-200 employees; or
- Reimbursement up to 50% for a business with more than 200 employees

Time Limit

The period of reimbursement should be an adequate length of time based upon the individual’s IEP and has acquired the technical skills needed for employment (no longer than three months unless prior approval from the WSM Board).

OJT Contracting and Process

OJTs can be either BSR negotiated with business or participant-initiated. In either case, the BSR develops the contract with the business. An OJT contract completed by a BSR must include the following elements:

1. Training Plan – Provides rationale for training, period covered, an overview and monthly details of the expected training.
2. Employer Contract – Provides a summary of the training program and executes the agreement between the WSM program and the business partner. Contracts are signed by the WIOA Program Director.
3. Employer W-9 – in order to process the reimbursement.
4. The BSR will give the fully executed contract to the WIOA Program Director, make the appropriate documentation and email a copy of the executed contract to the OJT candidates Career Advisor.
5. The Career Advisor will place a copy of the executed contract in the customer’s case file and correctly update MWE with this service within 48 hours of receipt of the email.

Payment Process

Payments will follow the process described below:

The OJT employer can use a service vendor or manage invoicing themselves using its own template. The following information is required:

1. Name of the customer and WIOA Program
2. Customer ID (if applicable)
3. Week Ending Date
4. Job Description
5. Type of Pay (for the most part it'll be Regular Pay, unless the customer does overtime)
6. # of Hours worked for the week
7. The hourly rate
8. The amount/cost

1. BSR submits timesheet and/or invoice via email to the Program Director, or Grant Associates Corporate Finance) after reviewing those documents against the contract to be sure all is as authorized. In the email include:
 - a. Exactly how the name of the business should be written on the check and the address for that recipient for mailing.
 - b. A statement in the email from the BSR that the attached invoice is approved to pay.
2. For the first timesheet, the email (which is copied to the WIOA Program Director) must include a copy of the fully executed contract.
3. Corporate Finance will process the request and mail the check to the Employer. Corporate Finance will keep the only copy of the check.

Performance Accountability

The standards for performance accountability must meet Federal and State Rules & Policies. In addition, the following processes & procedures must be followed:

1. The use of the Maryland Workforce Exchange (MWE) Application and the OJT package will provide all information necessary to determine eligibility.
2. The maintenance of adequate documentation to ensure accuracy of eligibility and priority determination shall include copies of documentation to verify completion of training. Such documentation may include but not limited to: copies of timesheets or invoices for payment.
3. Signature and dates of signatures for the applicant must be signed in blue ink.
4. All data related to training must be entered into the MWE within 48 hours of execution of the contract.

MONITORING

WSM will utilize the reporting capabilities of the MWE to monitor WIOA eligibility compliance. OJT expenditures will be monitored by Grant Associates and reported monthly to WSM. At its discretion, WSM reserves the right to conduct on-site monitoring of participant files and program elements to verify compliance with the conditions of WIOA and the policies and procedures described herein.

DISCLAIMER

This policy is based on WSM's interpretation of the statute, along with the Workforce Innovation and Opportunity Act; Final Rule released by the U.S. Department of Labor and federal and state policies relating to WIOA implementation. This policy will be reviewed and updated based on any additional federal or state guidance.