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**CATTARAUGUS-ALLEGANY WORKFORCE DEVELOPMENT BOARD**

 **TO:** **All One-Stop Career Center Staff and Providers**

 **SUBJECT:** OJT POLICY AND PROCEDURE

 **ISSUANCE DATE:** 12/3/10; Amended 2/18/11; 11/4/11; 2/3/12; 9/5/14; 6/15/18

 **EFFECTIVE DATE:** December 3, 2010

 **EXPIRATION DATE**: None

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##### PURPOSE OF THE ON-THE-JOB TRAINING PROGRAM

The On-the-Job Training (OJT) Program administered by the Cattaraugus Allegany Workforce Development Board (CAWDB) through its One Stop Centers is one of the allowable program activities authorized by the Workforce Innovation and Opportunity Act (WIOA). The focus of the OJT program is on the individual and it is designed to provide an opportunity for WIOA eligible individuals to receive the training necessary to acquire skills and knowledge that will enable them to maintain unsubsidized employment and job advancement.

OJT contracts may be entered into with public, private non-profit or private sector employer for an individual who has been enrolled in the WIOA program ***before hire*** ***and the beginning*** of training, with the exception of those participating in upgrading/retraining OJT. The OJT takes place while the individual is engaged in productive work learning the skills and information necessary for full and adequate performance on the job.

The two unique features of an OJT program are:

1. The individual begins training as a new employee or an incumbent worker begins training for a new position.
2. The individual receives training at the workplace, under appropriate supervision, thus acquiring occupational skills and knowledge in an “on-the-job” training environment.

The OJT program is appropriate for employers who have difficulty filling their skilled labor force needs with qualified, experienced workers, or who want to upgrade their current workforce. Employers may use an OJT in these instances by training eligible WIOA clients. Reimbursement is provided to the employer to pay for the extraordinary costs of such training because these costs exceed the expenses normally incurred in training individuals normally hired for the position.

1. **EMPLOYER ELIGIBILITY**

Private and public employers (excluding federal government) are eligible to participate as an OJT Employer. In regards to public sector employers, an OJT trainee cannot be required to pass a civil service exam or physical exam to retain their job. The job for which the OJT training has been provided cannot be subject to competitive labor procedures.

To be considered for an OJT, employers must meet the following criteria.

##### Complete a pre-award review. In the event that any negative results arise from the pre-award review, the Executive Director will confer with the Employer to obtain details regarding the situation. Based upon information gathered, the Executive Director will render a final determination of employer eligibility. Determinations will be made on a case-by-case basis.

##### The employer must provide information such as their Federal Employer Identification number to demonstrate that they are a legitimate employer, with full-time employees, and conducting their trade or business at an appropriate work site.

##### The employer must not be involved in a current labor dispute and must not have a history of frequent layoffs.

##### The employer must not utilize an OJT contract to displace currently employed workers or to reduce the hours of those employed below their normal schedule.

##### An OJT contract cannot be written for a position in which a worker is currently on layoff or for a position that will deny a current worker promotional opportunities.

##### The OJT must be conducted at the employer’s place of business, or off site, under the supervision of the employer’s personnel, and may not be subcontracted.

1. Employer must strive to provide a 12-month minimum period of job retention.

##### Employers who have relocated, either in whole or in part, are not eligible if such relocation resulted in the loss of employment for any employee of the company at the original location.

An establishment has relocated if any of its operations have moved from facilities located in one labor market area within the United States and its territories to a new or expanding facility in another labor market. As a rule, this restriction extends for a period equal to 120 days following the commencement or the expansion of the relocating company.

1. OJT contracts may be written in the public sector, (excluding the federal government) provided that the individual shall be retained and is not subject to a competitive labor process.
2. Per Sec. 667.272 of Title I of the WIOA, an employer must pay trainees the same rates as employees who are similarly situated in similar occupations, and who have similar training experience and skills. Trainees must also receive the same working conditions and benefits as those in similar employment. The anticipated reimbursement of wages must not be used to provide higher wages to trainees than employees in similar positions not covered by the OJT program.

*(The following is a guide to determining eligibility for businesses, which have previously participated in OJT contracts, or similar sponsored training activities.)*

##### If the employer was previously involved in an OJT training program or similar training activity, prior performance will be utilized to assist in determining contract approval. The specific criteria to be used are as follows:

##### The employer will provide information regarding the status of participants trained under previous contracts within the last 2 years. This will include:

##### The number of individuals who participated in programs; and

##### The number of participants who completed training and continued employment with employer.

##### If appropriate, the employer will be asked to provide a narrative to explain a lower retention rate of participants compared to other employees in a similar position. For example, participants may have quit voluntarily or may have been terminated for cause or unforeseeable changes in business conditions.

* 1. If the employer has not exhibited a pattern of providing participants with long-term employment or comparable wage, the employer may be disqualified from participating in the OJT program for **up to one (1) year**. For instance, an employer who terminates an OJT trainee shortly after the training period ends, and then within 3-months requests another trainee. The One Stop Manager shall review these employers on a case-by-case basis. After the disqualification period, the employer may again be evaluated for OJT program participation if a good faith effort has been made to correct previous problems.
1. **IDENTIFYING OJT OPPORTUNITIES WITH QUALIFIED BUSINESSES**

The local area will utilize Chambers of Commerce and other business organizations to promote OJT opportunities and to provide outreach to local businesses. The One Stops will also use the services of Job Developers to promote the OJT program. In addition, other traditional marketing and outreach methods such as advertisements and brochures will be used as appropriate.

##### OCCUPATIONAL QUALIFICATIONS

 Occupations that require a period of significant training and instruction to acquire specific skills and knowledge are eligible for On-the-Job training. At times when funds are limited, the CAWDB may need to target and/or limit funds by business sector and/or the local Demand Occupation List. There are several funding sources for OJT other than WIOA. The One Stop Managers will determine through case management which funding source will be accessed when the individual to be trained is enrolled. In the case of WIOA funding, OJT will not be used to assist employers in meeting governmental mandates.

The following guidelines will determine occupations that are eligible for OJT.

##### All OJT positions must be full-time as compared with the other full-time employees of the business. OJTs funded under special programs will adhere to any guidelines/requirements specified by the funding source. Any full-time position less than 30 hours per week must be prior approved by the One Stop Manager. The position must not be intermittent, temporary or part-time. Temporary employment is defined as employment with a pre-determined end-date, or employment, which does not provide similar benefits as compared to regular employees.

##### The position must not involve compensation in the form of commission as the source of reimbursement to the OJT Employee/Trainee.

##### The position must not include political or religious activity.

##### The position must require at least four (4) weeks of training for the individual trainee to reach a level of performance, which indicates that the trainee is progressing toward an acceptable level of productivity. Positions at a higher hourly wage may cause the maximum amount available to be depleted prior to four (4) weeks. In those cases, the OJT will still be allowable as priority should be given to high skill occupations.

##### The position must provide a starting wage of at least $10.00/hour.

##### V. INDIVIDUAL ELIGIBILITY

The potential OJT participant must meet the current eligibility criteria as defined by the WIOA under the Adult, Dislocated Worker or Youth definitions. The individual must receive an Initial Assessment and an Individual Employment Plan (IEP)/Training Plan must be developed that documents that an OJT is an appropriate activity. The individual should have interest in training and possess the ability and aptitude to learn the skills offered by an OJT.

1. Recruitment and Assessment

Individuals accessing services at the One Stops are provided with information on the OJT program through One Stop orientation or individual counseling. Brochures are also provided in the One Stops as well as other locations throughout the area.

The One Stops are responsible for individual intake and referral, and will evaluate the individuals’ appropriateness and job readiness for OJT. Individuals are deemed OJT-ready if the following criteria are met:

* Has identified an occupational area for which immediate employment is a realistic goal.
* Have the interest, positive attitude and aptitudes necessary to begin an OJT position in a specific occupation.
* Has resolved such employment barriers as transportation, day care, housing, health, or other barriers that can prevent successful OJT participation. Supportive Services to assist with addressing barriers will be provided to the Trainee as appropriate by WIOA or other agencies.
* Does not lack the basic skills needed to perform on the job. Such basic skills can include math, reading, understanding the English language and other skills that are necessary to begin OJT training.
* Does not have significant prior experience and/or education in the occupational area for which OJT is being considered.

### *OJTs will not be considered appropriate for*:

### Individuals who are presently on temporary lay-off and are expecting to be recalled by their former employer.

### Individuals awaiting other program activity participation (e.g. Classroom Training). OJT is not to be treated as a temporary program activity.

* Individuals that have been hired by the employer prior to the development and execution of an OJT contract, except for cases where the individual is deemed eligible and appropriate for OJT as an incumbent worker.
* Individuals who were previously employed by the prospective OJT Employer in the same or similar job.
* Individuals who are hired through a temporary service.

2. Individual Employment/Training Plan

### The Career Counselor working with the potential OJT Trainee is responsible to develop an appropriate and complete Individual Employment/Training Plan (IEP/TP) for that individual. The IEP/TP serves as documentation of the training activity and also provides the individual with an understanding of the activities that they will progress through in order to eliminate barriers to long-term employment. Both the Career Counselor and the individual sign the IEP/TP once completed. The IEP/TP must be documented in OSOS as well as a hard copy in the individual’s file.

1. INCUMBENT WORKER ELIGIBLITY

Incumbent Worker OJTs are designed to meet the special requirements of an employer or a group of employers to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment.

In order to eligible for an Incumbent Worker training the incumbent worker must be employed and meet the Fair Labor Standards Act requirements for an employee-employer relationship and have an established employment history with the employer for 6 months or more. In the event that the Incumbent Worker training is being provided to a cohort of employees it is not necessary that every employee in the cohort have a 6 month employment history with the employer. So long as the majority of the employees in the cohort have a 6 month work history with the employer.

Employer eligibility for Incumbent Worker training is based on the characteristics of the individuals in the program, the relationship of the training to the competitiveness of an individual and the employer and other factors including the number of employees trained, wages and benefits including post training increases and the existence of other training programs provided by the employer.

OJTs for employed individuals must also meet the following:

* Relates to the introduction of new technologies, production or service requirements, job upgrading, workplace literacy (including computer and technical literacy) or other reason deemed appropriate by the WDB.
* The maximum hourly wage for an incumbent worker must not exceed $20.00 per hour. Requests for incumbent worker OJTs that exceed this maximum hourly wage can be approved by the One Stop Manager on a case-by-case basis.

### The incumbent worker demonstrates a skills gap to utilize new technologies being introduced and/or for advancement to a new position within the business.

### If the purpose of the OJT is to promote the employee to a higher level position, the employer must provide at least a 10% increase in pay at the start of the training period.

**VII. OJT JOB DEVELOPMENT**

Once a Career Counselor determines that an OJT position is an appropriate course of action for an individual, the Business Services Staff begins the OJT development phase in which qualified employers that are seeking assistance with workforce needs are matched to appropriate individuals.

Business Services Staff shall use O-Net/Job Zone to identify skills necessary to fill the position. These skills will be identified in the IEP/TP and OSOS comments with a specific program prefix if required (NEG, State Level, etc.). The appropriateness of matches between individuals and OJT positions must be substantiated by an assessment of the individual’s needs, interests, education, previous training and work history. In instances where the individual has previous work experience in the same or substantially similar job, this information will be considered when reviewing the training outline prepared by the employer and in determining an appropriate length of training time.

Business Services Staff provides an overview of the program to the Employer who shall complete the Business Responsibility Questionnaire (or Attestation Form) and the Application and Pre-Award Review. At the same time, Business Services Staff shall complete and submit the Vetting Request and the Business Data Sheet. Once the business is certified via the Vetting Request, the Business Services Staff can move forward with developing the OJT contract.

***If an Employer fails certification by the NYS Department of Labor, they are not eligible for OJT services however, the Business Services Staff will work with the employer to assist them in resolving any issues.***

In some instances “reverse referrals” may be permitted. This may occur when an individual is referred to the One Stop for OJT participation from an employer or other agency. This type of contracting will be permitted only when:

1. The individual goes through the same intake process as any other participant and the completed IEP indicates OJT is necessary for the individual to perform the work associated with the occupation; and
2. The prospective OJT Employer meets all of the requirements contained in this Policies and Procedures Manual.

***The practice of reverse referrals will be closely monitored to ensure that it is practiced as the exception to the normal procedures outlined above***.

**VIII. TRAINING PLAN**

1. The employer is to complete the training plan with the assistance of the Business Services Staff. The training plan will take into account the relevant skills, knowledge, experience, and education of the client as documented on the IEP.
2. The training plan must clearly state the specific units of knowledge and skills that will be required during the training period. It must list these skills and units of knowledge in the sequence in which they are to be taught and identify the approximate number of hours of training time to be devoted to each.
3. In addition, the training plan must identify the capability level attained by the trainee at the end of the training period.

**IX. TRAINING LENGTH**

The allowable length of an OJT is based upon several guiding principles, including the following:

1. OJT training is provided in order to enable an individual to become skilled and knowledgeable while on-the-job and competitive with co-workers. It is not intended to necessarily last until the individual is 100 percent productive or proficient in the occupation.
2. The OJT training plan is one of the determinants for training length. It should be prepared in as much detail as possible.

3. The Business Services Staff will determine the O\*NET Job title and code for the occupation and the Specific Vocational Preparation (SVP) level associated with the O\*NET Code.

1. The Career Counselor will then evaluate the OJT Trainee’s previous work experience and education and training background to determine training hours.

# In instances where the OJT Trainee has a disability that requires training time in excess of that required of an individual without such a disability, the Career Counselor may determine that additional hours are justified and will contribute to the success of the OJT program.

**X. OJT CONTRACT AND PAYMENTS**

The Business Services Staff will negotiate the OJT contract with Employer per the One Stop Manager’s recommendation and verifies union concurrence if applicable. A separate contract is required for each trainee unless all are hired on the same date, in the same job title, and at the same rate of pay. Typically up to 50% of the wage rate for the participant will be reimbursed to the employer for the extraordinary cost of providing the training and supervision related to the training. Each contract is limited to a maximum reimbursement of $2,000 per trainee for gross wages only unless otherwise stated. The OJT contract(s) must be fully-executed by both the One Stop Manager and the Employer at least ***one day before*** the trainee begins employment. At least two original copies are to be signed by both the Manager and the Employer.

# Employers will be provided timesheets/vouchers to submit for the trainee’s wage reimbursement. The employer must submit vouchers for the previous month’s wages by the 10th of the following month including copies of timesheets and payroll records for each period being claimed. Under no circumstances shall the amount of OJT reimbursement exceed the contract amount. Unavoidable and/or authorized absences including holidays, vacations, illness, and temporary plant shutdowns will not be reimbursed.

# Employers will also not be reimbursed wages beyond 40 hours per week. A waiver may be considered for employers whose standard workweek exceeds 40 hours (e.g. 12-hour shifts, split weeks, etc.). Reimbursement for more than 40 hours, when approved, will be at the regular contract rate without any adjustment for the overtime rate.

Final claims for reimbursement must be received within 10 days of the end of the contract. Upon completion of contract, the One Stop shall issue a Closeout Settlement Form to the Employer to verify that all payments have been received and no further claims can be made against the contract.

**XI. MONITORING**

On-site or phone service visits are to be done by the Business Services Staff originating the contract or other designee of the One Stop Manager. An initial on-site service visit is to be conducted prior to the start of the OJT. Additionally, a mandatory on-site visit will be conducted ideally around the mid-point of the contract. Any additional phone or on-site visits shall be determined by the Business Services Staff taking into consideration the length of the training period and any employer and/or trainee concerns.

In addition to general oversight, which includes periodic on-site service visits or phone calls to Employers, the WDB may also conduct on-site compliance reviews of the OJT contracts.