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**CATTARAUGUS-ALLEGANY WORKFORCE DEVELOPMENT BOARD**

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

 **SUBJECT: On-The-Job-Training** (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; 3/6/25

 **EFFECTIVE DATE:** December 3, 2010

 **EXPIRATION DATE**: None

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##### PURPOSE OF THE (OJT) PROGRAM

The (OJT) Program administered by the Cattaraugus Allegany Workforce Development Board (CAWDB) through its One-Stop Career 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 businesses 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. Currently Employed Worker or Upgrades OJTs

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 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, and

• The Employer continues to meet 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 (DWs).

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.

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(s) deemed appropriate by the WDB.
* The maximum hourly wage for an incumbent worker must not exceed $30.00 per hour. Requests for incumbent worker OJTs that exceed this maximum hourly wage can be approved by the WDB Executive Director 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 5% increase in pay at the start of the training period.

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 individuals. 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 be experiencing a current lay-off in the office or unit where the participating OJT position is located.

##### 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. 683.275 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 two 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 year**. For instance, an employer who terminates an OJT trainee shortly after the training period ends, and then within three months requests another trainee. The WDB Executive Director 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-Stop Career Centers 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 OJT. 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 WDB Executive Director 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 have prior approval by the WDB Executive Director. 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 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 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 the New York State Minimum wage.

##### V. INDIVIDUAL ELIGIBILITY

The potential OJT participant must meet the current eligibility criteria as defined by WIOA under the Adult, DW 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-Stop Career Centers are provided with information on the OJT program through orientation or individual counseling. Brochures are also provided in the One-Stop Career Centers as well as other locations throughout the area.

The One-Stop Career Centers 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 employed 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.

# 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. The $15,000 cap may be exceeded but only at the discretion of the WDB Executive Director.

**X. OJT CONTRACT AND PAYMENTS**

The Business Services Staff will negotiate the OJT contract with Employer per the WDB Executive Director’s recommendation and verify 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. Reimbursement will be at 75% of the wage rate for businesses with less than 250 employees, and 50% of the wage rate for employers with more than 250 employees, for the extraordinary cost of providing the training and supervision related to the training. Each contract is limited to a maximum reimbursement of $15,000 per trainee for gross wages only unless otherwise stated. This maximum reimbursement is for all new hire and incumbent worker OJTs. The OJT contract(s) must be fully-executed by both the WDB Executive Director and the Employer at least ***one day before*** the trainee begins employment. At least two original copies are to be signed by both the WDB Executive Director and the business.

# Businesses will be provided 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 signed by both the employee and the employer 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 Career Center 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 WDB Executive Director. 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.

**XII. DATA ENTRY/DEV REQUIMENTS**

Documentation and record keeping is critical to the execution of all WIOA funded services. Below are several resources staff must be aware of to meet minimal data entry and record retention (Data Element Validation (DEV)) expectations. These resources are organized under the following headings: Initial Assessment, Individual Employment Plan, Performance Reporting and Data Element Validation. Staff are strongly encouraged to review all of these documents and use them as reference when doing data entry. NYSDOL Field Representatives should also be used a resource when questions arise that Technical Advisories (TAs) may not answer fully.

Data Entry Resources:

* Initial Assessment
	+ [TA 23-06.2](https://dol.ny.gov/system/files/documents/2025/01/ta-23-06.1.pdf)
		- [Basic Skills Assessments](https://dol.ny.gov/system/files/documents/2024/08/basic-skills-assessment-01-06-2024_1.pdf)
		- [Recording an Initial Assessment OSOS Guide](https://dol.ny.gov/system/files/documents/2021/03/osos-guide-initial-assessment.pdf)
		- [Eligibility Self Attestation Form](https://dol.ny.gov/system/files/documents/2025/01/eligibility-self-attestation-form-fillable_0.pdf)
		- [Career Services Eligibility Survey](https://dol.ny.gov/system/files/documents/2024/01/es102.pdf) (ES-102)
		- [Comprehensive Assessment and Supplemental Data OSOS Guide](https://dol.ny.gov/system/files/documents/2023/01/osos-comp-assess-guide-12_29_22.pdf)
* Individual Employment Plan
	+ [TA 9-17.1](https://dol.ny.gov/system/files/documents/2021/03/ta-09-17.1.pdf) including Attachment A (Sample IEP Template)
* Performance Reporting
	+ [TA 18-06.3](https://dol.ny.gov/system/files/documents/2024/04/ta-18-06.3-primary-indicators-of-performance-04-22-2024.pdf)
	+ Training and Employment Guidance Letter ([TEGL) 10-16 Change 3](https://www.dol.gov/agencies/eta/advisories/tegl-10-16-change-3)
		- [WIOA Primary Indicators of Performance and Outcomes OSOS Guide](https://dol.ny.gov/system/files/documents/2021/03/wioa-performance-measures-and-outcomes-guide_0.pdf)
			* While OJT’s are not eligible for the Credential Attainment Measure, they do qualify for Measurable Skills Gains – successfully meeting expectations at the mid-point monitoring mark required by [TA 10-15.2](https://dol.ny.gov/system/files/documents/2021/03/ta-10-15.2.pdf) (page 3). These participants will also be counted in the Employment in the 2nd and 4th Quarters after exit and Median Earnings measures.
* (DEV)
	+ [TA 23-03](https://dol.ny.gov/system/files/documents/2024/04/ta-23-03-data-element-validation-04-28-2023-1.pdf)
		- [DEV Chart Attachment A](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fdol.ny.gov%2Fsystem%2Ffiles%2Fdocuments%2F2024%2F04%2Fta-23-03-attachment-a-dev-chart.xlsx&wdOrigin=BROWSELINK) (Excel)
		- DEV Chart Attachment A
	+ [TEGL 23-19 Change 2](https://www.dol.gov/agencies/eta/advisories/tegl-23-19-change-2)
		- [Attachment II (Excel Version)](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.dol.gov%2Fsites%2Fdolgov%2Ffiles%2FETA%2Fadvisories%2FTEGL%2F2019%2FTEGL%252023-19%252C%2520Change%25202%2FAttachment%2520II%2520%2528Excel%2529.xlsx&wdOrigin=BROWSELINK)