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**Local Workforce Innovation and Opportunity Act (WIOA) Policy No. 2022-PL-02 REVISED**

**To: All Delegate Agencies, American Job Centers and Sector Centers**

DocuSigned by:

Patrick Combs

**From: Patrick Combs**  
**Interim CEO, Chicago Cook Workforce Partnership**

**Subject: ON-THE-JOB TRAINING POLICY**

**Date: September 2, 2022**

**Purpose:**

This policy provides guidance, requirements and forms for the provision of On-the-Job Training (OJT) initiatives under the Workforce Innovation and Opportunity Act (The Act) and defines the process for implementing and managing OJT contracts.

**References:**

- Workforce Innovation and Opportunity Act Sections 3(44), 134(c)(3), 181(a), 181(b), 181(d), 194(4)
- U.S. Department of Labor (USDOL) WIOA Final Rule 20 CFR Part 680 and 681
- Illinois Department of Commerce (IDOC) WIOA Policy Chapter 7 Section 2.2.1

**Background:**

The Chicago Cook Workforce Partnership (The Partnership) views On-the-Job Training (OJT) as one of its key business services for employers and authorizes its Delegate Agency management to assign appropriate staff to select, negotiate and approve high quality OJT contracts and services. The Act, Final Rules and IDOC allow for local definition of these services, and therefore The Partnership is issuing this policy letter to define the use of OJT in local programs. The Partnership reserves the right to adjust this policy to comply with future federal or state policy and/or waivers.

**Policy:**

**General Information and Requirements**

- A. On-the-job training (OJT) is defined in The Act, Section 3(44). Through an OJT contract (OJT Agreement), occupational training is provided for a WIOA participant in exchange for the reimbursement, typically up to 50 percent of the participant's wage rate, for the extraordinary costs of providing the training and supervision related to the training that assists the participant with acquiring new skills or knowledge essential to job performance.

- B. A formal OJT Agreement will be written between the Delegate Agency (as the OJT Broker) and employer. A training outline, known as the Individualized Services Training and Employment Plan (ISTEP), is developed before the OJT starts and is agreed to by the employer, OJT trainee and the Delegate Agency. Previously this document was known as the Skills Acquisition Training Outline (SATO).
- C. A customer who participates in OJT (an OJT trainee) must be hired as a regular, full-time employee by the OJT employer. The Partnership reserves OJTs for regular, full-time positions offering 30 or more hours per week.
- D. Full-time employment should continue upon successful completion of the training. Successful completion includes:
  - 1. Met all goals of the ISTEP; and
  - 2. Complied with all company and employment obligations throughout the training.
- E. The intent of an OJT is not subsidized employment. Employers should not enter into an OJT contract unless they are willing to train and retain successful completers.
- F. OJT contracts for low skill jobs that generally require little or no training are not suitable.
- G. OJT trainees may not be hired as independent contractors, contract, or seasonal employees.
- H. OJT trainees cannot be immediate family members of the business owner or direct supervisor. The term “immediate family” includes a spouse, child, son-in-law, daughter-in-law, parent, mother-in-law, father-in-law, sibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, and grandchild.
- I. OJT trainees are not eligible to receive Needs Related Payments (NRPs).
- J. The training does not have to occur at the employer’s location.

**OJT Employer Eligibility**

- A. OJT may be provided under contracts with private, public, non-profit, or private sector employers.
- B. A staffing agency is an eligible employer for WIOA-funded OJTs if the staffing agency meets the following conditions:
  - 1) The position is “temp to hire” and the host employer will hire the participant within six months. The time frame for which the host must hire the OJT participant can be extended, under certain circumstances, if approved by the Partnership.
  - 2) The placement from the staffing agency must be full-time as defined by the host employer.
  - 3) The OJT participant wages and working conditions are 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.
  - 4) OJT paperwork must be signed by both the staffing agency and the host employer since OJT obligations is a dual responsibility of staffing agency and host employer.
- C. A staffing agency, acting in the capacity as a Professional Employer Organization (PEO), is eligible for OJT provided all other applicable requirements under this policy letter are met. NOTE: A professional employer organization (PEO)—sometimes referred to as an employee leasing company—is a human resources company that is contracted by small companies to take over certain administrative functions, such as payroll, taxes, and employee benefits. The PEO, in effect, becomes a co-employer.

- D. Employers are ineligible for an OJT contract if they previously have exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits and working conditions that are equal to those provide to regular employees who have worked a similar length of time and are doing the same type of work.
- E. Employee Compensation - Individuals in OJT or individuals employed in activities under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills, and such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section (6)(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (a)(1)) or the applicable state or local minimum wage law (WIOA Section 181(a)(1)). **In addition, OJT contracts must be written for jobs paying at minimum \$14.00 per hour or the statutory minimum for the relevant locality, whichever is more.** However, The Partnership reserves the right to approve OJTs lower than the prescribed wages. These requests should be made by the OJT broker in writing to the Regional Manager and Director of Business Relations and Economic Development.
- F. Employment Conditions - Individuals in OJT or individuals employed in programs and activities under this title shall be 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 (WIOA Section 181(b)(5)).
- G. In addition to the above, an employer will be ineligible to receive a WIOA OJT contract if:
  - 1. The employer has any other individual on layoff from the same or equivalent position.
  - 2. The same or equivalent position is open due to a hiring freeze.
  - 3. The OJT would infringe upon the promotion of or displacement of currently employed workers or a reduction in their hours.
  - 4. The employer has terminated the employment of any regular employee or caused an involuntary reduction in its workforce with the intention of filling the vacancy with OJT participants.
- H. The employer must have the capacity and commit to ensuring that the OJT program will address specific skills gaps and that staff has the time and knowledge to carry out the necessary training.
- I. The employer agrees to cooperate with monitoring and reporting efforts as required by WIOA legislation including providing information for a pre-award survey and adhering to all other applicable local, state and federal rules and regulations. A copy of a pre-award survey is attached.

**OJT and Individualized Training Accounts (ITAs) and Apprenticeships**

- A. There is no prohibition to combining OJT with other forms of training, such as work experience, classroom, remediation, or an ITA.
  - 1. When combining OJT training with other types of training, only the OJT hours are eligible for wage reimbursement (i.e., a customer who may participate in remedial training prior to or concurrently with an OJT would not be eligible to have the remedial training portion of their program reimbursed).

2. If an OJT and another form of training are to occur concurrently, consideration must be given to the ability of the participant to successfully complete the training programs keeping in mind that the OJT is a full-time commitment.
- B. An OJT contract may be made with an employer that has a Registered Apprenticeship Program that is registered with USDOL's Office of Apprenticeship for training participants, but only the OJT hours are eligible for wage reimbursement through the OJT portion of the program. OJT contracts made with the employer, and Registered Apprenticeships generally involve both classroom and on-the-job instruction. Individual Training Accounts (ITAs) and OJT funds may be combined to support placing participants into a Registered Apprenticeship Program (§680.750 and §680.330), just as they can be used together for participants who are not in a Registered Apprenticeship. Delegate Agencies that intend to develop OJT contracts in connection with a Registered Apprenticeship Program should first contact the Partnership to discuss their plan and obtain written approval.
1. Depending on the length of the Registered Apprenticeship and local OJT policies, OJT funds may cover some or all of the registered apprenticeship training. The Partnership may choose to set the duration or a financial limit on ITAs and OJTs for Registered Apprenticeships.
- C. Other types of training combined with OJT may take place during scheduled work shifts, but must not interfere with the full-time commitment of the OJT.

### **OJT Contracts and Modifications**

- A. Upon determining the employer's capacity to provide an OJT, the Delegate Agency negotiates an OJT contract with the employer to determine a training plan, reimbursement rate and training length, among other contract provisions. Once a WIOA eligible candidate is selected for OJT, the ISTEP is developed to address the trainee's skills gap. A copy of the standardized OJT Agreement and ISTEP that will be utilized are attached to this policy.
- B. An ISTEP must be limited to the period required for a participant to become proficient in the occupation for which the training is being provided (§ 680.700(c)).
1. The skill requirement of the occupation should align with the Specific Vocational Preparation (SVP) time estimate determined by USDOL, which includes the time required to learn the techniques, acquire the information and develop the skills needed for average performance in a job. Find more information on SVP levels of preparation at <https://www.onetonline.org/help/online/svp>.
  2. In determining the appropriate length of the OJT trainee's ISTEP, consideration should be given to :
    - a) The skill requirements of the occupation/s;
    - b) The academic and relevant occupational skill level of the; participant;
    - c) Prior work experience; and
    - d) The participant's Individual Employment Plan (IEP) or, for eligible youth, the Individual Service Strategy (ISS).
- C. OJT contracts need to be modified if there are significant changes, such as layoffs or changes in federal, state and local rules and policies pertaining to the implementation of OJTs. OJT modifications should be discussed in writing beforehand with The Partnership's Director of Business Relations and Economic Development.
- D. Contracts must not be entered into with an employer that received payments under previous OJT contracts under WIOA or the Workforce Investment Act of 1998 (WIA), if the

employer has exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages, employment benefits, or working conditions at the same level as other employees performing the same type of work for the same length of time. (WIOA Section 194(4)).

### **OJT Participant Eligibility**

- A. OJT may be provided to individuals who are determined to be eligible under The Act and received a personal assessment of pre-existing knowledge and skills relevant to the OJT position as well as an ISTEP that displays specific skill requirements for the position.
- B. OJT may be provided to eligible unemployed individuals with WIOA Adult and Dislocated Worker funds and to eligible underemployed individuals with WIOA Adult funds.
- C. OJT provided through WIOA Adult funds must provide priority to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient. (WIOA Section 134(c)(3)(E)).
- D. OJT contracts may be provided for eligible youth when it is appropriate based on the needs identified by the objective assessment of the individual youth and the individual's likelihood of long-term success if given the opportunity.
- E. The participants must demonstrate a need for training as recorded on their IEP or ISS and in IWDS/Career Connect service screens and case notes.
- F. An OJT contract can be used to train a WIOA-eligible customer, who prior to the start of the OJT, is already working for the OJT employer and (§ 680.710):
  1. The employee is not earning a self-sufficient wage in accordance with Local Board Policy; and
  2. The OJT relates to any of the following:
    - a) The introduction of new technologies by the employer.
    - b) The introduction to new production or service procedures by employer.
    - c) A higher skilled position that requires additional skills or other appropriate purposes identified by The Partnership.

### **OJT Reimbursements**

- A. OJT is provided to WIOA customers in exchange for a negotiated reimbursement of fifty percent (50%) and in some cases up to seventy-five (75%) of the wage rate to compensate for the employer's extraordinary costs of training and additional supervision related to training (The Act, Sections 3(44), 134 (c)(3)(H)(i), 134 (c)(3)(H)(ii) and § 680.730). **(Note: The State may from time to time seek and receive a waiver allowing for the expansion of reimbursement rates. If a waiver is granted, The Partnership, under this policy may decide to apply the terms of these waivers to our policy.)** In order for an employer to be eligible for a wage reimbursement rate of 75% one of the following criteria has to be met:
  1. The OJT (ISTEP) is written for an individual from the following special populations (§680.320(b):
    - a) A person who is a veteran.
    - b) A person with a disability.
    - c) A person who has been incarcerated.
    - d) A person who is basic skills deficient.

- e) A person who is homeless.
  2. The OJT is written with an employer that has 50 or fewer full-time employees.
  3. The ISTEP leads to the receipt of an industry-recognized credential after completing the training.
- B. OJT training dollars are capped at \$10,000 per employee. Special exception to this guideline must be approved in writing by The Partnership's Director of Business Relations and Economic Development (BRED).
- C. The training program should generally not exceed a total of 1,040 full-time hours of actual training (the equivalent of full-time training for six (6) months). Special exceptions to this policy must be approved in writing by The Partnership's Director of BRED.
1. The training program should not be more than six (6) months in length as that indicates there may be too large a gap in the candidate's skill(s) level and employer needs;
  2. The training length may exceed six (6) months if there are extenuating circumstances such as the lengthy illness, plant shutdown, holidays, etc.
- D. The training program cannot be utilized to train new workers with the goal of laying off other employees.
- E. An employee in OJT may work overtime hours, but overtime hours are not eligible for wage reimbursement.
- F. OJT hours are not reimbursable toward regular orientations or training, which are provided to all employees in a given job or worksite.
- G. Funds provided to employers for OJT must not be used to directly or indirectly, assist, promote or deter union organizing.
- H. WIOA funds may not be used to provide OJT if the business has relocated from a location that resulted in any employee losing his or her job at the original location. In this instance, the business would only be eligible for OJT after they have been operational at the current site for more than 120 days

### **OJT Monitoring and Evaluation**

- A. On-site monitoring and/or desk reviews should be conducted by Delegate Agencies shortly after the OJT trainee begins work, with additional visits scheduled at appropriate intervals and determined by the length of the ISTEP.
- B. The Chicago Cook Workforce Partnership has procedures to monitor and keep track of OJT contracts to comply with this policy letter.
- C. All OJTs are subject to fiscal, programmatic, and compliance monitoring by the Chicago Cook Workforce Partnership (or its designee), IDOC, and USDOL.

### **Action Required:**

This information should be disseminated to Delegate Agency staff responsible for selecting, negotiating and approving OJT contracts such as workforce management, job developers, placement staff and career coaches; and to staff responsible for monitoring, budgeting, vouchering and accounting.

### **Inquiries:**

Delegate Agencies who have questions regarding any aspect of this policy should contact The Partnership's Director of BRED (312) 603-0200.

**Effective Date:**

Immediately upon Board approval.