



Southwest Georgia Workforce Development Board
Policy/Procedure Name: 3.4.1.2 - On the Job Training
Policy/Procedure #: WIOA-2017-8
State WDB State Policy Effective Revision Date: August 25, 2016
SWG A WDB Local Policy Approval Date: December 6, 2016
Rescinds Policy #8 & 8.1 – On the Job Training Policy dated 7/01/2015
SWG A WDB Local Policy Revision Date: February 28, 2017

PURPOSE.

The On the Job (OJT) Training program provides a wage reimbursement for the employers of eligible participants during the determined training period. The eligible participant must have a skills gap, as defined by local policy. The training period may last no more than six months.

LOCAL POLICY.

- a. Funding Limitations: OJT Agreement funding is limited to up to \$50,000 per employer per program year. Any exceptions require WDB Executive Committee and or WDB approval.
- b. OJT Occupations: The employer's open position and participant's job title must be an occupation within the LWIA 17 OJT Key Industries. (See Attachment 1 - LWIA 17 OJT Key Industries).
- c. OJT Wages: The minimum wage rate for an OJT is \$9.00 per hour.
- d. OJT Duration: The training period may last no more than six months as determined by the [Specific Vocational Preparation \(SVP\) code](https://www.onetonline.org/help/online/svp), <https://www.onetonline.org/help/online/svp>, and any additional documented skill gaps.
- e. OJT Agreement Approval: OJT Agreements requires the signature of the senior management or designee.

STATE POLICY.

WIOA § 3 (44) defines On-the-Job Training (OJT) as training that is provided by an employer in the public, private non-profit, or private sector to a paid participant while engaged in productive work in a job that:

- A. Provides knowledge or skills essential to the full and adequate performance of the job;



- B. Provides reimbursement to the employer of up to 50% of the wage rate of the participant, except as provided for in WIOA § 134 (c)(3)(H), for the extraordinary costs of providing the training and additional supervision related to the training; and
- C. Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the OJT training plan and/or service strategy of the participant.

OJT may be provided to eligible WIOA participants who, after assessment, are found to be in need of and suitable for training services in order to obtain or retain employment that leads to self-sufficiency. LWDA staff must document the decision to provide OJT in the participant's Individual Employment Plan or Individual Service Strategy. The decision should demonstrate that the training chosen is appropriate and necessary, that the participant does not already possess all of the skills necessary for the job, or that the participant needs to upgrade skills to effectively perform in another job. No participant may begin OJT employment until a contract has been signed by the employer.

OJT opportunities are training by an employer that is provided to a paid participant while engaged in productive work in a job that provides knowledge or skills essential to the full and adequate performance of the job; is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in Section 134(c)(3)(H) as noted below, for the extraordinary costs of providing the training and additional supervision related to the training; and is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

STATE 75% EMPLOYER WAGE REIMBURSEMENT.

Workforce Innovation and Opportunity Act (WIOA) Section 134(c)(3)(H) allows for up to a 75% reimbursement rate if companies meet certain conditions that are outlined below.

In order for an employer to be eligible for a wage reimbursement rate of over 50% and up to 75%, that employer must **meet one of the four** following criteria:

- a. The employer must be a small business as defined by the Small Business Administration. Small business size standards by industry can be found at https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.
- b. The OJT must lead to the participant's attainment of an industry recognized credential.
- c. The participant must be determined to be an individual "with barriers to employment," as listed in WIOA Section 3 (24), to include individuals who are long-term unemployed.



- d. The participant's job title must be on the state's in-demand occupations list. (See Attachment 1 - LWIA 17 OJT Key Industries.)

EMPLOYER REIMBURSEMENTS

- A. OJT training reimbursement to employers is deemed to be compensation for the extraordinary costs associated with training participants, including extra supervisory efforts, non-productive time, material waste and other incidentals, and the costs associated with the lower productivity of the participants. Employers are not required to document such extraordinary costs. (20 CFR 680.720).
- B. Employers might meet the qualifications to receive a wage reimbursement rate of 50%; however, some employers may be eligible to receive a wage reimbursement rate of up to 75%. WIOA § 134 (c)(3)(H)(ii) as noted above.
- C. OJT contracts are granted based upon availability of funding and may be limited or unavailable due to funding constraints.
- D. If a collective bargaining agreement exists between the employer and the employees or their representatives, a written concurrence from the appropriate labor organization(s) is required prior to the OJT.

STATE WAGE CAP

USDOL has set the wage cap for OJT at the Georgia average hourly wage of \$21.48. The wage cap is an upper limit on the hourly wage rate that is eligible for OJT reimbursement. The OJT training reimbursement percentage (50% or 75% depending on factors) is applied against the participant's wage rate unless the wage rate exceeds the state's average hourly rate. When the latter occurs, the training reimbursement percentage must be applied against the state's average hourly wage.

ELIGIBILITY FOR EMPLOYED WORKERS

- OJT contracts may be written for eligible employed workers when:
- A. The employee is not earning a self-sufficient wage as determined by LWDB policy;
 - B. The requirements in 20 CFR 680.700 are met; and
 - C. The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the LWDB.



INDIVIDUALS WITH BARRIERS TO EMPLOYMENT.

WIOA Section 3 (24) defines individuals with barriers to employment as: a member of one or more of the following populations:

- A. Displaced homemakers.
- B. Low-income individuals.
- C. Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in section 166.
- D. Individuals with disabilities, including youth who are individuals with disabilities.
- E. Older individuals.
- F. Ex-offenders.
- G. Homeless individuals (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), or homeless children and youths (as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2))).
- H. Youth who are in or have aged out of the foster care system.
- I. Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers.
- J. Eligible migrant and seasonal farmworkers, as defined in section 167(i).
- K. Individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).
- L. Single parents (including single pregnant women).
- M. Long-term unemployed individuals.
- N. Such other groups as the Governor involved determines to have barriers to employment.

SEC. 181. REQUIREMENTS AND RESTRICTIONS.

(a) BENEFITS.

(1) WAGES.

(A) IN GENERAL. Individuals in on-the-job training 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.

(B) RULE OF CONSTRUCTION.—The reference in subparagraph (A) to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall not be applicable for individuals in territorial jurisdictions in which section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) does not apply.



(2) TREATMENT OF ALLOWANCES, EARNINGS, AND PAYMENTS.—Allowances, earnings, and payments to individuals participating in programs under this title shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.). (b) LABOR STANDARDS.—

(1) LIMITATIONS ON ACTIVITIES THAT IMPACT WAGES OF EMPLOYEES.—No funds provided under this title shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce development system.

(2) DISPLACEMENT.

(A) PROHIBITION.—A participant in a program or activity authorized under this title (referred to in this section as a "specified activity") shall not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(B) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) OTHER PROHIBITIONS.—A participant in a specified activity shall not be employed in a job if:

(A) any other individual is on layoff from the same or any substantially equivalent job;

(B) the employer has 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 the participant; or

(C) the job is 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).

(4) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants



on the same basis as the compensation is provided to other individuals in the State in similar employment.

(5) EMPLOYMENT CONDITIONS.—Individuals in on-the-job training 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.

(6) NO IMPACT ON UNION ORGANIZING.—Each recipient of funds under this title shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(7) PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR INDUCE RELOCATION.—No funds provided under this title shall be used, or proposed for use, to 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.

(8) PROHIBITION ON USE OF FUNDS AFTER RELOCATION.— No funds provided under this title for an employment or training activity shall be used for customized or skill training, on-the-job training, incumbent worker training, transitional employment, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

SEC. 194. GENERAL PROGRAM REQUIREMENTS.

(1) On-the-job training contracts under this title, shall not be entered into with employers who have received payments under previous contracts under this Act or the Workforce Investment Act of 1998 and have exhibited a pattern of failing to provide on-the-job training participants with continued long- term employment as regular employees with wages and employment benefits (including health benefits) and working conditions 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.

(2) No person or organization may charge an individual a fee for the placement or referral of the individual in or to a workforce investment activity under this title.



(3) The Secretary shall not provide financial assistance for any program under this title that involves political activities.

(4)(A) Income under any program administered by a public or private nonprofit entity may be retained by such entity only if such income is used to continue to carry out the program.

(B) Income subject to the requirements of subparagraph (A) shall include— (i) receipts from goods or services (including conferences) provided as a result of activities funded under this title; (ii) funds provided to a service provider under this title that are in excess of the costs associated with the services provided; and (iii) interest income earned on funds received under this title.

(C) For purposes of this paragraph, each entity receiving financial assistance under this title shall maintain records sufficient to determine the amount of such income received and the purposes for which such income is expended.

SEC. 195. RESTRICTIONS ON LOBBYING ACTIVITIES.

(a) PUBLICITY RESTRICTIONS.

(1) IN GENERAL.—No funds provided under this Act shall be used for— (A) publicity or propaganda purposes; or (B) the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat,

(i) the enactment of legislation before Congress or any State or local legislature or legislative body; or (ii) any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.

(2) EXCEPTION.—Paragraph (1) shall not apply to— (A) normal and recognized executive-legislative relationships; (B) the preparation, distribution, or use of the materials described in paragraph (1)(B) in presentation to Congress or any State or local legislature or legislative body; or (C) such preparation, distribution, or use of such materials in presentation to the executive branch of any State or local government.

(b) SALARY RESTRICTIONS.

(1) IN GENERAL.—No funds provided under this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment or issuance of legislation, appropriations, regulations, administrative action, or an Executive order proposed or pending before Congress or any State government, or a State or local legislature or legislative body.



(2) EXCEPTION.—Paragraph (1) shall not apply to— (A) normal and recognized executive-legislative relationships; or (B) participation by an agency or officer of a State, local, or tribal government in policymaking and administrative processes within the executive branch of that government.

EMPLOYER RESPONSIBILITIES

- A. The employer agrees that OJT employees will not displace any currently employed workers (including partial displacement, such as by reducing hours or denying promotional opportunities, wages or other employment benefits).
- B. The employer agrees that no OJT employee can be employed when: (a) any other individual is on lay-off from the same or substantially equivalent job, or (b) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy created by hiring a OJT employee whose wages are subsidized under this agreement.
- C. The employer agrees that OJT employees may not be engaged in the construction, operation or maintenance of any facility used for religious instruction or worship.
- D. The employer agrees that no individual in a decision making capacity engages in any activity, including the administration of the OJT contract supported by WIOA funds, if a conflict of interest, real or apparent, is present. A conflict of interest may arise in the event that an employee under this OJT contract is an immediate family member (or partner) of an individual engaged in a decision making capacity with the LWDA, the LWDB, or the employer. Immediate family is defined as husband, wife, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, brother, brother-in-law, sister, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparents and grandchild, or an organization that has a financial or other interest in the firm or organization selected for the OJT contract. In the event of a potential conflict of interest, the Employer must notify the LWDA, in writing, of the potential conflict. No action regarding the individual may take place until approved by the LWDA in writing.
- E. The employer agrees that there will be no preferential treatment of a person or group of people over other people or groups in the workplace.
- F. The employer agrees that no person shall – on the grounds of race, color, sex, age, disability or national origin– be subjected to illegal employment discrimination.



G. The employer agrees to maintain appropriate standards for health and safety in work and training environments.

H. The employer agrees to comply with Georgia law regarding workers' compensation insurance for all OJT employees. Information on how to comply with Georgia law is found at: <http://sbwc.georgia.gov>

I. The employer agrees to retain the OJT employee upon completion of the training if the employee's performance meets the employer's standards.

J. If the employer does not have an established employee grievance procedure, the employer agrees to abide by the procedure provided by the LWDA.

K. The employer shall only employ OJT employees who have been found eligible for WIOA services prior to placement on the employer's payroll.

L. The employer understands that OJT employees shall be compensated at the same rates, including periodic increases, as all similarly employed workers. In no event shall the rate of pay be less than the applicable state or federal minimum wage, whichever is higher. Additionally, OJT employees must receive the same benefits and have the same working conditions as similarly situated employees.

M. The employer shall maintain all records pertaining to the OJT, including application, notice of hire, time sheets, payroll records, invoices for wage reimbursement and other relevant financial records, and shall make them available to the LWDA representative as requested. All said records, books, papers or documents shall be retained for a period of six years from the date of termination of this agreement and available for inspection by federal, state, and LWDA representatives. In the case of an audit or litigation, said documents shall be retained until all such actions are settled; even if the period of retention exceeds six years.

N. The employer agrees to participate in any follow-up efforts conducted by the LWDA or its authorized representative to evaluate OJT effectiveness.

O. Continuation of employer agreements for multiple years will be contingent on meeting established performance outcomes.

P. The employer must not use funds provided for OJT to directly or indirectly assist, promote or deter union organizing.

Q. The employer must not use the OJT to impair existing contracts for services or collective bargaining agreements.



R. The employer will meet the provisions of the Georgia Illegal Immigrant Enforcement Act of 2011 by signing and complying with the affidavit.

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[Rescinds Policy #8 & 8.1 – On the Job Training Policy dated 7/01/2015]

SWGA WDB Local Policy Revision Date: February 28, 2017



OJT Occupations: The Key Industries identified for investment of OJT funds are identified below. The employer's open position and participant's job title must be an occupation within the Key Industries. All exceptions will require WDB Executive Committee or WDB approval.

KEY INDUSTRIES

- Aerospace and Defense
- Agribusiness and Agriculture
- Automotive
- Business and Administration
- Construction
- Energy, Environment and Infrastructure
- Film, Music, and Digital Entertainment
- Financial Services
- Food Processing
- Information Technology
- Medicine, Health and Life Sciences
- Logistics and Transportation
- Manufacturing