

<b>Policy Name.</b>	<b>On-the-Job (OJT) Training Policy</b>
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Owner	Executive Director/Director of Adult and Dislocated Worker Services

## Purpose of OJT:

On-the-Job Training (OJT) is a work-based training strategy under the Workforce Innovation and Opportunity Act (WIOA) that enhances access of job-seeking individuals to employment opportunities as well as building or updating their skills and/or establish themselves in emerging high-demand fields. OJT programs can be particularly successful for individuals who are a) unable or unlikely to obtain employment without retraining; b) low income, on unemployment insurance or public assistance, or need to earn a wage while learning an occupational skill; c) have barriers to employment; or d) eligible for advancement within an organization. OJT also provides an incentive to businesses to hire individuals and invest in their skill development. The employer is provided with reimbursement of up to 50% of the training wages to offset the “extraordinary” costs of training for the specific employee.

## Policy:

OJT is provided under a contract with an employer or registered apprenticeship program sponsor in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIOA participant in exchange for the reimbursement of up to 50 percent of the regular hourly wage rate of the participant to support the employer for the costs of providing training and supervision that exceed the usual time necessary to perform the essential job functions. Reimbursement is for wages only and does not include taxes, fringe benefits or supportive services. Only jobs paying an hourly wage less than or equal to the “self-sufficiency” wage, as defined by the Local Workforce Development Board (currently \$35.00 per hour), will be considered for an OJT, but there is no set limit to the total contract value or number of contracts an employer may be awarded.

OJT contracts under WIOA Title I must not be entered into with an employer who has received payments under previous contracts under WIOA or WIA if the employer has exhibited a pattern of failing to provide OJT 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.

An OJT contract must be limited to the period required for a participant to demonstrate proficiency or attain the required performance standards, but no longer than 1,040 hours. In determining the appropriate length of the contract, consideration should be given to the

skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's Individual Employment Plan (IEP). The level of training needed, or "skills gap", will be identified through use of a standardized skills assessment that directly relates to the specific requirements of the job per the job description. Training funded through this program must be above and beyond the training an employer typically provides to new hires in that position. An OJT contract should not be written for jobs where there is no requirement for prior skills, training or education as defined by the qualifications on the job posting by the employer.

OJT contracts may be written for eligible *employed* workers when the employee is not earning a self-sufficient wage or a wage comparable to or higher than wages from previous employment, *and* the OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, and/or workplace literacy.

The OJT contract duration is negotiated with the employer based on the skills that need to be learned to perform the job at a level comparable to an employee who would be hired without the need for OJT. The rationale for the training may also consider a participant's disability, including the need for accommodations; and the program's available funding. Any request for OJT funding made less than 30 days before the start of the training period may not be considered for funding. A start date for an OJT will not be determined until the assessment and justification processes are complete for both employer and potential employee.

Upon successful completion of the OJT program, individuals must be employed in an occupation that a) has a clear path for advancement and b) maintains a regular full-time position (minimum of 32 hours per week).

The Executive Director or his/her designee has authority to make exceptions to the policy but must report such actions, along with the rationale used to make the exception, to the Program Committee.

## Procedures:

### A. General Guidelines:

- It is expected that employers that use OJT funding will hire the individual receiving the training as a full-time employee (a minimum of 32 hours per week) provided 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.
- As a rule, no more than 25 percent of a company's workforce may be enrolled in OJT at any one time. Waivers to this policy may be extended where OJT will contribute to economic development circumstances such as major plant expansions or entrepreneurial start-up companies.
- Per WIOA regulations (20 CFR 683.200(g)), "No individual may be placed in an employment activity if a member of that person's immediate family is directly

supervised by or directly supervises that individual.” For the purpose of this policy, 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, cousin, stepparent, stepchild, grandparent, and grandchild.

- Participating employers must agree to cooperate with monitoring efforts as required by WIOA legislation and adhere to all other applicable local, state and federal rules and regulations, as well as respond to CNY Works staff requests for wage and retention information of participants. Participants will be monitored on-site at least once during the training.
- Funds provided to employers for WIOA OJT must not be used to directly or indirectly assist, promote or deter union organizing.
- Other guidelines may be added by CNY Works that may be necessitated by federal and/or state regulation, regional oversight, or local recommendation.
- The following should not be considered for OJT:
  - Jobs that have no requirements for prior training, skills, or education;
  - Jobs where the principle source of income is tips, commissions or piecework;
  - Jobs that are intermittent or seasonal in nature.
- OJT's will be marketed on the CNY Works website, by the Business Services team, including the Workforce Innovation Coordinator's outreach to businesses, and the Workforce Advisors through individual case management processes. The Business Services team will identify OJT opportunities that businesses may have and notify the Workforce team to find possible candidates. Outreach efforts may include email blasts, Survey Monkey interest surveys, text messaging, social media, networking with other agencies and involvement with business-serving organizations.

## B. Determining OJT Length

The maximum time frame for an OJT is 1,040 hours. Duration of an OJT is a function of training needed, NOT the maximum allowed under this policy. WIOA Title I program services staff should consult with the employer to review the job description and estimated training time and compare it to similar job tasks using the Occupational Information Network's (O\*NET) Specific Vocational Preparation Range (SVP) to determine the appropriate occupational training needed based on a determined skills gap.

## C. Participant Eligibility

- OJT employees must meet program eligibility requirements for each funding source, i.e. WIOA Adult, Dislocated Worker or Youth formula funded programs. And registered at the Career Center, and

- Customers must be making less than the “sustainable wage” rate as defined by the Local Workforce Development Board (currently \$35 or less per hour).
- The characteristics of the participants, taking into consideration whether they are “individuals with barriers to employment,” as defined in WIOA Section 3(24) or, for Adult-funded participants, a “priority population” as defined in WIOA Section 134(c)(3)(E).
- Assessment must be made and an IEP developed showing that an OJT is appropriate, even if referred by an employer. The IEP take the following into account before placing the participant in an OJT program: a) Does participant need to learn skills for the position, or do they already have those skills?; b) Does the participant have a need for training?; c) What is best way for the individual to obtain the skills (OJT or ITA or both); d) Can the position be obtained at this business without OJT training?; and e) Is the participant likely to succeed in training?
- While 32 hours per week is the expected minimum, CNY Works staff may submit a written request for a waiver to this minimum when placing participants with significant barriers to employment.
- Participants who have received funding through an ITA or other WIOA funded training are also eligible for an OJT.

#### D. Employer Considerations, Eligibility and Assurances

- An OJT is appropriate for employers who can demonstrate they have difficulty filling their skilled labor force needs with qualified, experienced workers, or who want to upgrade their current workforce.
- OJT contracts should give a priority to small businesses.
- The quality of employer-provided training and advancement opportunities (i.e. if the OJT contract is for an in-demand occupation and/or will lead to an industry recognized credential).
- Employer must be able to clearly define the major tasks of the job as a means with which to assess attainment of proficiencies of required job duties.
- Employer must pass the “pre-award review” process, which includes:
  - The OJT employer must be registered with NYS Department of State Division of Corporations
  - The OJT employer must have clean safety record with the United States Department of Labor Occupational Safety and Health Administration.
  - The employer must be financially solvent and have an adequate payroll record keeping systems that tracks hours worked, gross pay, deductions and net pay.
  - An OJT agreement will not displace any currently employed worker or alter current workers’ promotional opportunities. Nor will an OJT agreement be made with an employer who has terminated any regular employee or otherwise reduced the workforce in order to hire OJT employees.
  - An OJT agreement may not be written with a company that has relocated (for the first 120 days after commencing operations), if the relocation has resulted in any employee job losses at the original location.
  - The employer must not have workers currently in a layoff status or be involved in a labor dispute.

- The OJT agreement must not impair existing contracts for services or collective bargaining agreements. When an OJT agreement would be inconsistent with a collective bargain, the appropriate labor organization and OJT employer must provide written concurrence before the OJT can begin. Additionally, the OJT agreement may not assist, promote nor deter union organizing.
- OJT employees may not work on the construction, maintenance or operation of any facility that is used for sectarian activities
- The prospective OJT employer must meet the existing “pattern of failure” requirements.
- Review and evaluation of the retention of previous OJT candidates placed with the employer to determine likelihood of success.
- The employer must not illegally discriminate in training or hiring practices because of race, color, sex, national origin, religion, disability, political beliefs or affiliations, or age.
- The employer will fill out a standard application and explain why the OJT is necessary and provide the expected training plan for a candidate that meets all required skills, training and education.

#### E. Required Paperwork

1. OJT Processing checklist
2. Customer/Employer request for OJT (i.e. questionnaire/application)
3. Initial customer assessment/OSOS data entry requirements
4. IEP Development
5. Employer job description and related training plan
6. Skills assessment, identification of skills gap and justification for OJT hours
7. Employer due diligence
8. Contract
9. Billing procedures