



Subject: Work-Based Training Services
Purpose: To transmit the CCWB’s policy on work-based training services
Statutory Authority: Workforce Innovation Opportunity Act:
29 §USC 3102 (14) & (44); 29 USC §3164(c)(2)(C); 29 USC §3174(d)(4) & (5); 20
CFR §§ 680.190, 680.195; 680.340, 680.700 – 680.840, 681.460, 681.480, 681.540,
681.590 - 681.630; TEGL 13-16

Action:
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Expiration Date: Indefinite

Work-Based Training Services Policy

Background:

Work-based training is employer driven with the goal of unsubsidized employment after participation. Generally, work-based training involves a commitment by an employer or employers to fully employ successful participants after they have completed the program. Work-based training can be an effective training strategy to provide additional opportunities for participants in finding high-quality work and employers by developing their workforce.

It is the intention of both the Workforce Innovation and Opportunity Act (WIOA) and the Coastal Counties Workforce Board, that services provided through this policy encourage employment in jobs allowing individuals to become self-sufficient. Furthermore, it is the goal to employ WIOA participants in jobs that either have clear career pathways or that provide sustainable wages.

Provided consumer choice requirements of § 680.340 have been met, contracts for services may be used instead of Individual Training Accounts (ITAs) when the services provided are on-the-job-training (OJT), customized training, incumbent worker training, or work experience/transitional jobs. It is encouraged that employers assist WIOA staff in identifying appropriate training providers for the aforementioned trainings. As appropriate, local procurement of training providers will occur.

Providers of OJT, customized training, incumbent worker training, paid or unpaid work experience, or transitional jobs are not subject to the same WIOA eligibility requirements of 29 USC 2152 that are established for providers listed on the State List of Eligible Training Providers and Programs.

Each of the following work-based training models can be effectively used to target different jobseeker and employer needs. Work-based training opportunities must be identified as appropriate activities for program participants on the Individual Employment Plan (IEP). In addition, IEPs and case notes will specify goals of the Work-Based Training activity by identifying purpose of the activity and outcomes expected.

NOTE: Unless noted, work-based services may be in the private, for-profit sector, the non-profit sector or in the public sector.

I. On-the-Job Training (OJT):

OJT is provided under a contract with an employer or registered apprenticeship program sponsor in the public, private non-profit, or private sector, and is primarily designed to first hire the participant and then provide them with the knowledge and skills necessary for the full performance of the job. It is important that OJTs provide participants with relevant skills and opportunities for career advancement and that the OJT provides the employer with a skilled worker.

Through the OJT contract, occupational training (i.e., learning on the job) is provided for the WIOA participant in exchange for the reimbursement of 50 % of the wage rate of the participant, for the extraordinary costs of providing the training and supervision related to the training.

OJT contracts must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. 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 IEP. See Appendix A for a chart describing appropriate OJT time periods.

OJT contracts must be continually monitored by the WIOA service provider (i.e., Workforce Solutions) so that WIOA funds provided through OJT contracts are providing participants the training to retain employment successfully.

a) Employer Eligibility Criteria:

Under WIOA title I, (29 USC 3254(4), 20 CFR §680.700(b), in order for an OJT contract to be written with an employer, the employer must not have a history or pattern of failing to provide OJT participants with continued long-term employment. Similarly, an employer with a history of failing to provide consistent workplace benefits to employees after their OJT, or in any way disparately treating such employee, will also be ineligible for OJT contracts.

b) Participant Eligibility Criteria:

OJTs may be provided to WIOA Title I eligible participants consistent with their IEPs.

OJT participants are part of the performance accountability system under WIOA which includes employment related outcomes, and performance information will be collected on all participants in OJT.

c) Employed Worker Criteria:

OJT contracts may be written for eligible employed workers obtaining a new position with the current employer when:

- i. The employee is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment, as determined by Local WDB policy;
- ii. The employee stands to obtain a wage gain, skills gain and opportunity for advancement or any combination of these factors;
- iii. The aforementioned requirements of OJT are met (derived from 20 CFR § 680.700); and
- iv. 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 Local WDB.

II. Incumbent Worker Training (IWT):

Incumbent worker training is designed to meet the special requirements of an employer (including 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 (i.e., increasing the competitiveness of the employee or employer). In addition, IWT can only be conducted with a commitment by the employer to retain or avert the layoffs of the incumbent worker(s) trained. 20 CFR § 680.790.

Pursuant to 20 CFR § 680.800, this Board expends up to 20% of the combined Adult and Dislocated Worker allocation for IWT.

a) Employer Eligibility Criteria:

In order to utilize the IWT option, the employer(s):

- must commit to retain employees trained and,
- must sign affirmation stating that the training is necessary for employee retention (or averting a layoff)

Additionally, the following must also apply:

- the training must augment the competitiveness of the individual(s) and the employer(s); and
- the training must provide employees with access to new career opportunities within a business; or
- the training will create new opportunities for entry-level workers through the promotion of existing workers

b) Employee Eligibility Criteria:

The incumbent worker must meet the requirements established in 20 CFR § 680.780: Namely:

- the incumbent worker needs to be employed;
- meet the Fair Labor Standards Act requirements for an employer-employee relationship; and
- have an established employment history with the employer for 6 months or more (except in the event that the incumbent worker training is being provided to a cohort of employees. In such cases, not every employee in the cohort must have an established employment history with the employer for 6 months or more as long as a majority of those employees being trained do meet the employment history requirement).

Importantly, an incumbent worker does not fall within the definition of participant for purposes of WIOA title I (20 CFR §677.150(a)) unless they are also receiving other services under those programs. Therefore, they do not have to meet the eligibility criteria for WIOA title I adult and dislocated worker programs.

NOTE: As such, per Federal regulations, IWTs are not included in calculations for the State Primary Indicators of Performance.

c) Employer Cost Share Requirement:

Employers are required to pay for a significant cost of the training for those individuals in incumbent worker training. This can be done through both cash payments and fairly evaluated in-kind contributions. The wages paid to individuals while in training may be considered as a source of matching funds. The employer's share of the cost shall not be less than 50 percent (50%) of the cost.¹

¹ The employer cost-share requirement is waived for employers who enroll in incumbent worker training through discretionary H-1B grants (unless otherwise indicated). Instead, for H-1B discretionary grants, the Local Area's ITA cap applies as the maximum amount of grant funds to be provided per participant.

III. Customized Training (CT):

Customized training is designed to meet the special requirements of an employer or group of employers that seek to train and hire three (3) or more employees. In addition to the reasonability of cost per participant (AKA “cost per”), decisions regarding the approval of customized training should take into account whether the training will:

- Increase flexibility at the local level to serve business and industry through a value-added approach to their specific needs;
- Increase the skill levels of workers that increase opportunities for career advancement and higher wages; and
- Improve the ability of Workforce Solutions to respond quickly to the needs of business and industry.

Customized training is generally for hiring new or recent employees and not for retraining existing employees. Although not required, the CCWB encourages the use of customized training that leads to credentials. Customized training is generally classroom based and is often provided by a third party for the employer.

The employer(s) must pay not less than 50 percent of the cost of the training. Costs may be in cash, or in-kind, must be documented, and are subject to audit. A contract between the WIOA service provider, the training provider, and the employer (or group of employers) will be finalized and signed prior to the start of training.

The employer contribution can be met through the following means:

- Actual cash contribution
- Instructor costs
- Training facility/room costs
- Tuition costs
- Training materials
- Training equipment
- Employee wages during training (limited to 25% of the contribution requirement)

Employer Eligibility Criteria:

The employer (or group of employers) must commit to hire individuals who successfully complete the customized training program or, in the case of incumbent workers, continue to employ, an individual on successful completion of the training.

a) **Employee Eligibility Criteria:**

Customized training is generally for hiring new or recent employees (i.e., hired within less than 90 days) and not for retraining existing employees. CT may be provided to WIOA Title I eligible participants consistent with their IEPs.

b) **Employed Workers:**

A customized training contract may also be written to train an employee who is already working for the employer (or group of employers) for which the customized training is being provided, when the employee is not earning a self-sufficient wage. In this situation, customized training must elevate the employed worker to reach at least 75% of the self-sufficient wage as defined by local area policy. In addition, the skill upgrade training must relate to either:

- i. The introduction by the employer of new technologies;
- ii. The introduction to new production or service procedures; or
- iii. Upgrading to new jobs that require additional skills/workplace literacy or other purposes identified by the local workforce board.

IV. Youth Work Experience

WIOA, 29 USC(c)(2)(C) prioritizes work experiences for WIOA-eligible in-school and out-of-school youth. WIOA requires local workforce areas to spend a minimum of 20 percent of local area funds on work experiences (29 USC(c)(4), 20 CFR §681.590. Allowable Work Experience Expenditures include:

- Wages/stipends paid to youth in the work experience;
- Incentive payments directly tied to the completion of work experience²;
- Employability skill/job readiness training to prepare youth for work experience;
- Staff time working to identify and develop a work experience opportunity, including staff time spent working with employers to identify and develop the work experience;
- Staff time working with employers to ensure a successful work experience, including staff time spent managing the work experience;
- Staff time spent evaluating the work experience;
- Participant work experience orientation sessions;
- Classroom training or the required academic component directly related to the work experience; and
- Orientations for employers

In accordance with 20 CFR §681.600 work experiences are planned, structured learning experiences that take place in a workplace for a limited period of time. These work-based strategies can be provided through all core programs. They may be paid or unpaid, as appropriate. Importantly, these strategies may take place in the private for-profit sector, the non-profit sector, or the public sector.

NOTE: Labor standards apply in any work experience/transitional job where an employee/employer relationship, as defined by the Fair Labor Standards Act or applicable State law, exists.

Work experiences provide the youth participant with opportunities for career exploration and skill development. Work experiences must include academic and occupational education. The educational component may occur concurrently or sequentially with the work experience. Further academic and occupational education may occur inside or outside the work site.

The types of work experiences include the following categories:

- a) Summer employment opportunities and other employment opportunities available throughout the school year;

² Coastal Counties Workforce Board does not currently have an incentive policy in place. Given this, incentive payments for youth are not authorized.

- b) Pre-apprenticeship programs;
- c) Internships and job shadowing; and
- c) On-the-job training (OJT) opportunities as defined in WIOA sec. 3(44) and in § 680.700.

Wages Versus Stipends:

Wages: A wage is generally a payment for services rendered where an employer/employee relationship exists. This form of compensation is usually paid through a payroll system and subject to the taxes applicable to the employer of record and participants. Paying a wage usually indicates that a program views the youth as an employee or a trainee. Paid work experiences and internships may fall under the Fair Labor Standards Act (FLSA). The FLSA implemented by the DOL's Wage and Hour Division requires that individuals must be compensated under the law for the services they perform for an employer.

Stipends: A stipend is an allowable payment for participation in Work Experience service element. States and locals have flexibility when determining local policies on stipends based on local program design and participant needs. In cases where Work Experience is not associated with an employer/employee relationship, such as pre-apprenticeship programs in a classroom setting or virtual learning environment, a stipend may apply. For purposes of this policy, a stipend is a fixed regular payment made to a participant enrolled in WIOA Youth during his/her/their enrollment and must be documented to exhibit satisfactory attendance and assignments. Online classroom attendance is allowable if participation/seat time can be verified. Stipends differ from incentive payments as they are not tied to specific program outcomes (e.g. credential attainment) and instead are based on program participation or attendance. States and local areas should have a policy guiding the payment of classroom-based stipends. State policies and procedures for youth stipend payments need to align with Uniform Guidance at 2 CFR parts 200, <https://www.gpo.gov/fdsys/granule/CFR-2014-title2-vol1/CFR-2014-title2-vol1-part200/content-detail.html>;

Stipends are not a substitute for wages. Providers should refer to applicable legislation/policies, including the Fair Labor Standards Act (FLSA), to determine when a wage must be paid to an individual(s).

Stipend Amounts:

Eligible individuals may receive a maximum of \$2,250 as a stipend during Work Experience activities.

- Individuals may receive a maximum of \$2,250 as a stipend during Work Experience activities. This figure is calculated using minimum wage³ and a proposed average number of Work Experience hours (160); individuals in a shorter Work Experience activity would receive a smaller corresponding stipend. Individuals in longer Work Experience activity may be eligible for the stipend, but the stipend will expire once they had earned \$2,250.
- Alternative methods to determine stipend amounts can be utilized for individuals participating in unique/cohort projects, and can factor in size of project, alignment with other funding streams stipend policies or limitations, and prior project planning or expectation-setting. Workforce Solutions will consult CCWI staff whenever alternative methods are proposed.

Reporting Work Experience Expenditures:

³ Consistent with current Maine State wage requirements

In accordance with 20 CFR §618.610, the WIOA youth service provider must track program funds spent on paid and unpaid work experiences, including wages, and staff costs for the development and management of work experiences and report such expenditures as part of the local WIOA youth financial reporting. The percentage of funds spent on work experience is calculated based on the total local area youth funds expended for work experience rather than calculated separately for ISY and OSY.

NOTE: Local area administrative costs are not subject to the 20 % minimum work experience expenditure requirement.

V. Transitional Jobs:

Transitional Jobs:

Transitional jobs are a type of work-based training that is allowed under WIOA. Transitional jobs are time-limited work experiences that are subsidized and are in the public, private, or nonprofit sectors for individuals with barriers to employment who are chronically unemployed or have an inconsistent work history, and are combined with comprehensive career (see 20 CFR §680.150) and supportive services (see 20 CFR §680.900) and 20 CFR §680.195.

The goal of transitional jobs is to establish a work history for the individual that demonstrates success in the workplace, and develops the skills that lead to entry into and retention in unsubsidized employment or, provides some other tangible workforce development benefit. See 20 CFR §680.190. Unlike OJT, there is no assumption that the individual will be retained in their transitional job after the experience is over, though that would be a successful experience and outcome.

Pursuant to 29 USC 3174(d)(5) of WIOA, and 20 CFR §680.15, this local board has voted to use up to 10% of its adult and dislocated allocation to provide transitional jobs to individuals.

VI. Registered Apprenticeships:

Apprenticeships, registered under the National Apprenticeship Act of 1937 (29 USC 50 *et. seq.*), are an authorized training model under WIOA (29 USC 3102(7)(B)). The Department of Labor recently clarified that Registered Apprenticeships should reflect in-demand occupations in the local area (TEGL No. 13-16, Change 1 (May 17, 2021)). WIOA (29 USC 3164 and 3174) further provides that it is permissible to use WIOA funds for Registered Apprenticeships for both the Adults and Dislocated Workers and Youth.

There are many benefits to a Registered Apprenticeship. It is a proven model of job preparation, combining paid on-the-job training (OJT) with instruction, all to increase workers' skill levels and wages, and offer them advancement along a career path. It is also a business-driven model, providing an effective way for employers to recruit, train, and retain highly skilled workers. Apprenticeship permits employers to develop and apply industry standards to training programs, increasing productivity and the quality of the workforce. An individual who has completed a Registered Apprenticeship receives a nationally-recognized, portable credential, and its training may be applied toward further post-secondary education (TEGL 13-16 (May 17, 2021)).

As per TEGL 13-16, all Registered Apprenticeship programs must contain the following elements:

- Business Involvement
- On-the-Job Training

- Related Instruction or classroom style training that complements the OJT. Related instruction may be provided by a community college, technical school or college, an apprenticeship training school, or by the business itself.
- Rewards for Skill Gains, including increases in pay and knowledge. Progressive wage gains reward and motivate apprentices as they advance through training and become more productive and skilled at their job.
- National Occupational Credential, referred to as a Certificate of Completion, which is issued by the U.S. Department of Labor (USDOL) or a federally recognized SAA and is portable.

Registered Apprenticeships are automatically eligible to be included in an Eligible Training Provider List (ETPL) list. 20 CFR §680.470. TEGL No. 13-16, Change 1, issued on May 17, 2021, clarifies that Registered Apprenticeship Programs must opt-in to the list.

Pre-Apprenticeships

WIOA funds may also be used for pre-apprenticeship programs that provide instruction and/or training to increase math, literacy, and other vocational and pre-vocational skills needed to gain entry into a Registered Apprenticeship program. All pre-apprenticeship programs must “possess or develop a strong record of enrolling their pre-apprenticeship graduates into a Registered Apprenticeship program” and have at least one Registered Apprenticeship partner. (TEGL 13-16, January 12, 2017).

As per 20 CFR §680.470(f), a pre-apprenticeship program does not have the same automatic ETPL status under WIOA as do Registered Apprenticeship programs.

On-the-Job Training Durations:

Specific Vocational Preparation (SVP), (see O*NET for code levels), is the amount of lapsed time required by a typical worker to learn the techniques, acquire the information, and develop the facility needed for average performance in a specific job-worker situation. This training may be acquired in a school, work, military, institutional, or vocational environment.

Specific vocational training includes: vocational education, apprenticeship training, in-plant training, on-the-job training, and essential experience in other jobs. Because the method of training delivery can vary widely, staff should use the SVP Code as a tool for guidance purposes only.

Long term experience with OJT and customized training programs, suggests that employers are willing and able to successfully train new hires for most occupations within a three month timeframe. This typically provides enough time for a new employee who has the required baseline skills to get up to speed on the unique processes and products developed by the company.

Coastal Counties Workforce Board Policy on OJT Duration

SVP Code Level	High Need (10+ weeks) (shown in weeks)	Medium Need (shown in weeks)	Low Need (shown in weeks)
7-9	12	10-12	8-10
5-6	10-12	8-10	6-8
4-5	9-11	7-9	5-7
2-3	8-10	6-8	4-6

Discretion on the part of the case manager/job developer is necessary to determine whether the trainee has a high, medium, or low need. Factors in making this determination include any relevant job skills experience that the trainee brings to the job as well as the employer requirements and dedicated supervision available. In exceptional circumstances the service provider may request of CCWI, additional weeks be added to the duration not to exceed four months.

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