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Trident Workforce Development Board Workforce Innovation and Opportunity Act

ON THE JOB TRAINING (OJT) POLICY

TO: SC Works Trident Operator /Staff

ISSUANCE DATE: November 07, 2023

EFFECTIVE DATE: July 1, 2023

SUPERSEDES: April 11, 2023, February 27, 2018, August 29, 2017, September 27, 2016, May 13, 2014, July 31, 2013, May 15, 2012, April 12, 2011, June 30, 2008, and May 1, 2007

SUBJECT: OJT Policy

PURPOSE:

The purpose of this policy is to establish guidelines for providing OJT to WIOA Youth, Adults, and Dislocated Workers.

This OJT policy will follow and stay compliant with the State of South Carolina regulations and any changes thereto.

POLICY:

In accordance with WIOA Regulations Sections 680.200 and 680.210, OJT must be provided to participants as a training service. Also, see Customer Accident Policy.

The Grantee will not reimburse the employer for hours paid to a participant for holidays, sick days, vacation days, etc. These types of hours are considered to be fringe benefits and not training hours. Employer payments are considered to be compensation for the extraordinary costs associated with training participants and compensation for the costs associated with the lower productivity of such participants which is in line with the WIOA Rules and Regulations.

PROCEDURES:

1. On-The-Job Training (OJT) Definition:

OJT is provided by an employer to a paid participant while engaged in productive work. The OJT must:

- a. Provide knowledge or skills essential to the full and adequate performance of the job;
- b. Provide reimbursement to the employer of up to 50% of the wage rate, unless the specific funding stream allows for a higher rate, of the participant; and
- c. Be limited in duration based on the training content, the participant's prior work experience, and the Individual Employment Plan.

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- d. The employers' reimbursement will be based on the employers' pay cycle. (i.e., if the employer pays bi-weekly, they will be reimbursed that way).

Employers may receive a reimbursement level of up to 75 % of the total wage taking into account the following two factors:

1. Characteristics of the participants establishing whether they are "individuals with barriers to employment" as defined in WIOA sec. 3(24); See definition below.
2. The size of the employer for small businesses; Small businesses are considered 49 or less employees

Individuals with barriers to employment include those individuals in one or more of the following categories, as prescribed by WIOA sec. 3(24):

- (1) Displaced homemakers;
- (2) Low-income individuals;
- (3) Indians, Alaska Natives, and Native Hawaiians;
- (4) Individuals with disabilities;
- (5) Older individuals, i.e., those aged 55 or over;
- (6) Ex-offenders;
- (7) Homeless individuals;
- (8) Youth who are in or have aged out of the foster care system;
- (9) Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;
- (10) Eligible migrant and seasonal farmworkers, defined in WIOA sec. 167(i);
- (11) Individuals within 2 years of exhausting lifetime eligibility under TANF (part A of title IV of the Social Security Act);
- (12) Single parents (including single pregnant women);
- (13) Long-term unemployed individuals - unemployed for 27 or more consecutive weeks;

2. Eligibility:

Training services may be provided to youth, adults, and dislocated workers in accordance with the WIOA Regulations 680.200, the Trident Area Eligibility Policy, and the Trident Area Priority of Services Policy. If a participant is long-term unemployed (27 weeks or longer), an exception to this policy may be made to the household income requirement based on the Priority of Services Policy. Exceptions will need the Executive Director of the BCDCOG's approval.

OJT Contracts may be written for eligible employed workers only when:

- a. The employee is not earning a self-sufficient wage in accordance with the Trident Area Self-Sufficiency Definition Policy; and
- b. The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, or workplace literacy.

Minimum Standards for On-the-Job Training:

- a. SC Works Trident should identify positions for OJT making no less than \$10/hour. The hourly wage minimum is subject to change pending Board direction and in the event, there is a change in the minimum wage laws.
- b. SC Works Trident should not place an individual in an OJT contract if the participant already possesses the necessary skills to perform the job requirements.
- c. Classroom training may lead to an OJT, but may not be entered into simultaneously. If a client receives classroom training, an OJT following the completion of the training should be directly related to the classroom training.
- d. All OJT contracts must be full-time, defined as at least 30 hours per week or more. Participants may work under OJT for over 40 hours per week; however, the employer will only be reimbursed for up to 40 hours.
- e. All OJT contracts must be for permanent positions, temporary jobs will not be considered eligible for OJT funding.

3. OJT Contract:

OJT is provided under a contract with an employer 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% of the wage rate (see requirements above for 75% reimbursement), unless the specific funding stream allows for a higher rate. OJT contracts should ensure that participants are provided a structured training opportunity (Training Outline) to gain the knowledge and competencies necessary to succeed in the occupation in which they receive training.

Test of Adult Basic Education (TABE), WorkKeys Assessments, Background Checks, and/or Drug Screenings will only be required for OJTs should the employer require it.

Training outlines must specify what the participant is expected to learn during OJT. Specific skills to be acquired for the actual job should be provided to ensure that both the participant and the employer will focus on training in skills rather than simply on employment in a job.

Using O*Net and the Standard Occupational Classification (SOC) System, the Specific Vocational Preparation Code (SVP) will be used to indicate the level of sophistication that an occupation requires.

The length of OJT may not exceed the period of time generally required for the acquisition of skills needed for the position within a particular occupation, and the length of training will be negotiated with the employer within the hourly limits established for the Specific Vocational Preparation (SVP) Codes in O*Net.

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Exceptions to the Standards for the On-the-Job Training and the Length of the OJT can be made by the Executive Director in certain cases provided there is a significant reason as documented by the employer and the Business Services Coordinator.

To ensure that workers and employers have a common understanding of the goals and purpose of the OJT assignment, the OJT contract must:

- a. Identify the occupation;
- b. Identify the skills and competencies to be learned (Training Outline);
- c. Identify the length of time the training will be provided;
- d. Provide written assurance that the employer has violated no Federal law within 3 years from the date of the contract; and
- e. Provide written assurance of employer compliance to all items.

Fair labor standards require that the OJT wage must be commensurate with the wage of what a similarly skilled individual would receive for the same occupation.

The OJT Contract form must be completed and signed by all parties before the beginning of the OJT. The contract with original signatures must be provided by the Workforce Development Specialist. A copy will be maintained in the participant's file and copies provided to the WIOA account, employer, and participant.

Contracts should not be written with an employer who has previously 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 provided to regular employees who have worked a similar length of time and are doing the same type of work.

4. OJT Packet for Employer/Worksite Reviews:

a. Contract Checklist Review:

The Business Services Coordinator must complete the attached OJT Contract Checklist form before the development of an OJT contract with careful attention given to that section of the checklist where the employer is asked to indicate what services they would like for the WIOA participant to have before the start of the OJT. The form must be signed and dated by the reviewer and employer. A copy must be maintained in the participant's file.

b. Compliance Review:

The Business Services Coordinator must conduct a thorough review after 2 weeks to ensure both the employer and employee are comfortable with how things are going and the processes. The existing Compliance Review form will be used as a point of reference for information to cover during the review process. The review should be documented in the individual and employer's case notes titled compliance review along with the OJT agreement number.

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c. Documentation Needed:

It is the responsibility of the assigned Career Coach to maintain copies of the following:

- pay stubs;
- Timesheets; and
- Proof of Worker's Compensation.

Submit copies of the above documents to the Business Development Coordinator when submitting the invoice for the OJT contract to be paid.

e. Workers Compensation:

The procedure for Workers' Compensation will be followed as outlined under the On-the-Job Training (OJT) Federal Regulation Requirements under Workforce Innovation and Opportunity Act (WIOA) Section 20 CFR 667.274:

(i.) Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in programs and activities under Title I of WIOA.

(ii.) (1) To the extent that a State workers' compensation law applies, workers' compensation must be provided to participants in programs and activities under Title I of WIOA on the same basis as the compensation is provided to other individuals in the State in similar employment.

(2) If a State workers' compensation law applies to a participant in work experience, workers' compensation benefits must be available for injuries suffered by the participant in such work experience. If a State workers' compensation law does not apply to a participant in work experience, insurance coverage must be secured for injuries suffered by the participant in the course of such work experience.

VERIFICATION OF WORKERS' COMPENSATION INSURANCE IS REQUIRED BEFORE PLACING A CUSTOMER IN WORK EXPERIENCE. DOCUMENTATION MUST BE KEPT IN THE HARD COPY FILES AS NOTED ABOVE.

5. Regulatory Requirements:

The following regulatory requirements must be adhered to in the provision of work experience and OJT activities.

a. Fair wage and labor standards:

1. Individuals must 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. Such rates must be in accordance with

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applicable law, but may not be less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law;

2. Individuals must be provided benefits and working conditions at the same level and to the same extent as the other trainees or employees working a similar length of time and doing the same type of work; and
3. Allowances, earnings, and payments to individuals participating in programs under Title I of WIOA are not considered as income for 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.

b. Health and safety standards:

1. Health and safety standards established under Federal and State law otherwise applicable to the working conditions of employees are equally applicable to the working conditions of participants engaged in programs and activities under Title I of WIOA.
2. To the extent that a State worker's compensation law applies, worker's compensation must be provided to participants in programs and activities under Title I of WIOA on the same basis as the compensation is provided to other individuals in the State in similar employment.

c. Nondiscrimination:

1. Employers must comply with the nondiscrimination and equal opportunity provisions of WIOA section 188 and its implementing regulations, 29 CFR part 37.
2. Participants can be trained in sectarian activities as described in TEGL 1-05. "WIOA funds can be utilized to support employment and training in religious activities when the assistance is "indirect" in the meaning of the Constitution. Assistance is considered "indirect" when participants are given a genuine and independent private choice among training providers or program options and can freely elect from such option to receive training in religious activities. Additionally, any employment, training, or services offered must also satisfy the requirements of the program."

d. Displacement:

1. A WIOA participant 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.
2. A program or activity authorized under Title I of WIOA must not impair existing contracts for services or collective bargaining agreements.
3. A participant in a program or activity under Title I of WIOA may not be employed in or assigned to 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 unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the participant; or

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- (c) the job is created in a promotional line that will infringe in any way on the promotional opportunities of currently employed workers.

NOTE: THE EXECUTIVE DIRECTOR OF THE BERKELEY CHARLESTON DORCHESTER COUNCIL OF GOVERNMENTS HAS THE DISCRETION TO MAKE EXCEPTIONS TO THIS POLICY; SEE *CREATION AND REVISION OF POLICIES*.



Ronald E. Mitchum, Executive Director
BCDCOG

November 07, 2023

Date

