

Arkansas Workforce Center at Little Rock Standard Operating Policy and Procedure (SOP)

Policy or Procedure:	OJT Guidelines: Referrals (Internal and External) and On-the-Job Training Procedure		Policy or Procedure #:	5107
Effective Date:	TBD	Prepared By:	Business Service Manager	Approved By: Little Rock Workforce Development Board

1.0 Purpose:

The purpose of this policy is to describe referrals (*external and internal*) and to detail the regulations concerning on-the-job training (OJT), in accordance with the rules and regulations of Workforce Innovation and Opportunity Act of 2014 (WIOA), the WIOA Final Rule, Training and Employment Guidance Letters (TEGLs) published by the Employment and Training Administration of the U.S. Department of Labor (ETA), policies of the Arkansas Department of Workforce Services (ADWS), and policies of the Arkansas Workforce Development Board (AWDB).

2.0 Reference:

ADWS Policy No. WIOA I-B – 3.4
WIOA §§ 3(24), 3(44), 134(c)(3), & 188(a)(3)
20 CFR 680, 681.600(c)(4), & 683
Comments in WIOA Final Rule concerning §680.320
29 CFR part 2, subpart D
TEGLs 3-15 & 13-15
ADWS Policy No. WIOA I-B – 1.2 (Definitions)
ADWS Policy No. WIOA I-B – 3.3 (Occupational Skills Training)

3.0 General Requirements:

- 1.1 WIOA Participant Referral Form
- 1.2 Training Plan from Case Manager
- 1.3 On-The-Job contract from Business Services

4.0 Forms/Materials:

- 1.4 WIOA Participant Referral Form –Internal Referral (Attachment A)
- 1.5 Customer Needs Survey- External Referral (Attachment B)
- 1.6 WIOA Participant Resume
- 1.7 OJT Training Outline (Attachment C)
- 1.8 OJT Checklist (Attachment D)
- 1.9 Signed W9 (Attachment E)

- 1.10 OJT Nepotism Statement Signed by Job Seeker (Attachment F)
- 1.11 OJT Contract (Attachment G)
- 1.12 OJT Timesheet and Invoice (Attachment H)
- 1.13 OJT Progress Report (Attachment I)
- 1.14 Employer Verification Form (Attachment J)
- 1.15 OJT Modified Contract Form (Attachment K)

5.0 Referral Policy: The demand for skilled workers by an Employer or among a group of Employers may result in a targeted effort by Business Services to recruit appropriate OJT Trainees. Candidates may be identified through a multiple of systems to include Employer relationships, from a pool of applicants who have yet enrolled into the program, or who are qualified WIOA eligible and an enrolled job seeker. The OJT arrangement should be explained as an "investment" that the local workforce development board is making in both the business and the Trainee. Like any sound business decision, the placement of a Trainee must be based upon enough information to insure a reasonable likelihood of success. Despite the training reimbursement, the Employer is also committing valuable time and money to the preparation of a new employee and should not risk the expense of rapid turnover resulting from a mismatch. Hence, the timely assessment of the applicant's interests, attitude, skills, and abilities will work to the benefit of the business. Similarly, the applicant's best interest is also served by avoiding the failure that will inevitably result from a hasty and inappropriate placement.

6.0 Detailed Procedure:

There are three ways to refer a qualified WIOA eligible and enrolled job seeker with an On the Job Training (OJT) opportunity:

- Internal Referral from a Case Manager
- External Referral from Business Services
- OJT Employer Outreach

6.1 Internal Referral from a Case Manager

- 6.1.1 The Case Manager (CM) determines WIOA eligibility and documents in the Arkansas Job Link system (AJL).
- 6.1.2 The CM presents the Business Service Manager (BSM) with the participant's WIOA Referral form (Attachment A). The BSM approves the participant's WIOA referral for on-the- job training (OJT).
- 6.1.3 Detailed information about the WIOA Referral will be supported through case notes and in the Service and Training Plan (S&T) in AJL by CM.

- 6.1.4** The OJT candidate will meet with Business Services, the WIOA Operational Manager, and Project Director to determine whether the participant is a good match for the employer or a particular OJT.
- 6.1.5** If the WIOA participant is a good match for a particular AJL Job Order or if Business Services knows of a potential employer who may need employees with the skill set offered by the WIOA participant, Business services will reach out to the employer and discuss either Direct Hire possibilities or the OJT program. Business Services will act as a liaison between the employer, CM and the participant. Communication will be maintained in person and supported by case notes in AJL.
- 6.1.6** If the potential OJT candidate is not a good match, Business Services will notify the CM of the outcome and the reason for the decision and complete a case note indicating barriers or recommendation for additional services.
- 6.1.7** If the potential OJT candidate is a good match for a potential OJT, Business Services will set up the candidate for OJT.

6.2 External Referral from Business Services
(Acting on behalf of an employer with interest in an OJT)

- 6.2.1** Business Services confirms the Employer is Registered and Verified in the Arkansas Job Link system (AJL).
- 6.2.2** The Employer completes a Customer Needs Survey- External Referral (Attachment B).
- 6.2.3** The Employer supplies Business Services with Job Order Details including pay rate, job description and company benefits to post position in AJL.
- 6.2.4** The Employer submits Training Outline for position to Business Services.
- 6.2.5** The Business Service Manager (BSM) or Project Director (PD) approves all information submitted by the Employer.
- 6.2.6** The Business Services provides the Customer Needs Survey- External Referral (Attachment B) to the Case Manager (CM) to identify a WIOA eligible job seeker and identify a good match for a potential OJT candidate. CM will refer potential WIOA OJT candidate to Business services for OJT.
- 6.2.7** The OJT candidate will meet with Business Services, the WIOA Operational Manager, and Project Director to determine whether the participant is a good match for the employer or a particular OJT.

- 6.2.8** Potential OJT candidate's resumes are submitted to Employer by Business Services for consideration.
- 6.2.9** Feedback is obtained from employer on potential OJT candidates.
- 6.2.10** If the potential OJT candidate is selected by the Employer and the potential OJT agrees to participate, Business Services schedules an appointment at the center to meet the selected OJT candidate to discuss the OJT Procedure.
- 6.2.11** If the selected OJT candidate chooses not to participate, no further steps are taken. Business Services notifies Employer. Business Services will notify the CM of the outcome and the reason for the decision and complete a case note indicating barriers or recommendation for additional services.
- 6.2.12** External candidates must not have already been offered the position and/or started working for the Employer before OJT is rendered.
- 6.2.13** All company required pre-screeners must have already been conducted and cleared before OJT is rendered.

6.3 OJT Employer Outreach

- 6.3.1** A sound outreach plan should be based on the premise that businesses will use an organization that serves their interests.
- 6.3.2** Outreach efforts should begin with Business Services and avoid duplicative efforts.
- 6.3.3** Define outreach objectives locally to suit the area's employment conditions.
- 6.3.4** Research labor market information using online resources, such as the Arkansas Labor Market Report from the Arkansas Department of Workforce Services (ADWS), Arkansas Labor Market and Economic Report from ADWS, and Demand Occupations: Arkansas' Hot 45.
- 6.3.5** OJT outreach can be a mix of direct and indirect methods. This can include face-to-face contacts with employers, mail-outs (introductory letters, notes of appreciation, newsletters), involvement with the Chamber of Commerce, press releases, networking with other agencies, and speaking to civic organizations.
- 6.3.6** Outreach strategies include: Researching companies before contact, and noting previous labor needs. Targeting high-growth and in-demand industries in the LWDA. Educating employers about how OJT can enhance their businesses, cut waste, skill up the workforce, reduce turnover, and increase profits. Projecting how OJT can save the company money. Offering the employer assistance with completing the required paperwork.

7.0 On-the-Job-Training Policy: On-the-job-training (OJT) is training provided by an employer or registered apprenticeship (RA) program sponsor to a participant who is engaged in productive work that provides knowledge or skills essential to the full and adequate performance of the job. The training is limited in duration to the time required for the participant to become proficient in performing the job, considering the content of the training, the prior education and work experience of the participant, and the service strategy of the participant [20 CFR 680.700(c)]. To compensate for the extraordinary costs of providing the training and supervision and the decreased productivity of the participant, the employer is normally reimbursed up to 50% of the wage rate of the participant [WIOA § 3(44); 20 CFR 680.700(a); 20 CFR 680.720]. The employer does not have to document the extraordinary costs [20 CFR 680.720(c)]. This rate may be increased to an amount of up to 75% if the LWDB approves the increase, taking into account the following factors [WIOA § 134(c)(3)(H); 20 CFR 680.700(a); 20 CFR 680.720(b); 20 CFR 680.730(a); TEGL 3-15]:

1. The characteristics of the participants, especially individuals with barriers to employment (see WIOA § 3(24) or ADWS Policy No. WIOA I-B – 1.2 for definition)
2. The size of the employer, with an emphasis on small businesses
3. The quality of employer-provided training and advancement opportunities, for example if the OJT contract is for an in-demand occupation and will lead to an industry-recognized credential
4. Other such factors as the LWDB may determine to be appropriate, which may include the number of employees participating in the training, wage and benefit levels of those employees (at present and anticipated upon completion of the training), and relation of the training to the competitiveness of a participant

7.1 Detailed OJT Procedure:

Once Business Services identifies a potential OJT candidate and an employer for an OJT position:

- 7.1.1 The Business Service Manager (BSM) provides to the employer and approves the Training Outline for the position, which includes job description, pay rate, hours, and company benefits.
- 7.1.2 Business Services matches the OJT Training Outline (Attachment C) to the OJT candidate's gap in skills to determine longevity of the OJT contract.
- 7.1.3 On-the-job training is provided through contracts with employers instead of through ITAs [WIOA 134(c)(3)(G)(ii)(II); TEGL 3-15].
- 7.1.4 BSM negotiates the OJT wage and reimbursement rate with the employer. Starting wage must be a minimum of \$10 an hour at entry of training and end at a minimum of \$10 following completion of training. Starting wage cannot exceed \$18.24 per hour).
- 7.1.5 LWDBs must document the factors used when deciding to increase the wage reimbursement levels above 50% up to 75% [20 CFR 680.730(b)].

- 7.1.6 The contract must be approved in writing by the Business Service Manager and final approval by the Project Director.
- 7.1.7 BSM retains original contract, and Employer, Case Manager, and Staff Accountant are given a copy for record keeping.

8.0 Providers of On-the-Job Training

- 8.0.1 Provider of on-the-job training are not subject to the requirements applicable to entities listed on the eligible training provider list, and they are not included on the state list of eligible training providers and programs. If the State, however, decides to impose performance regulations, local areas must collect required performance data and identify providers that meet required performance levels [20 CFR 680.530].

9.0 The Combination of ITAs with OJTs

- 9.0.1 There is no prohibition on the combination of ITAs with OJTs if conditions for both programs are met [20 CFR 680.750; Comments in WIOA Final Rule concerning §680.320]. An OJT may be combined with an ITA to support a participant in a registered apprenticeship program if conditions for all three programs are met (See ADWS Policy No. WIOA I-B – 3.3 Occupational Skills Training or 20 CFR 680.330 for additional information concerning using an ITA to support participants in registered apprenticeship) [20 CFR 680.750].

10.0 OJT Contract with a Previous Employer Not In Compliance

- 10.0.1 An OJT contract may not be written with an employer who has previously received payments under WIOA or WIA and has established a pattern of not providing OJT participants with continued long-term employment and the same wages, benefits, and working conditions as other employees working a similar length of time and doing the same type of work [20 CFR 680.700(b)].

11.0 OJT Contracts with Registered Apprenticeships

- 11.0.1 OJT contracts may be written with registered apprenticeship program sponsors or participating employers in registered apprenticeship programs for the OJT portion of the registered apprenticeship program. Depending on the length of the registered apprenticeship and local OJT policies, these funds may cover some or all of the registered apprenticeship training. All other regulations concerning OJT participants and contracts apply [20 CFR 680.740].

12.0 Work-Based Training

12.0.1 No funds may be provided to employers for work-based training and other work experiences to be used directly or indirectly to assist, promote, or deter union organizing [20 CFR 680.830]. No funds may be provided to employers for work-based training and other work experiences to be used directly or indirectly to aid in the filling of a job opening which is vacant because the former employee is on strike, the former employee is being locked out in the course of a labor dispute, or the job is vacant because of an issue in a labor dispute involving a work stoppage [20 CFR 680.840].

13.0 WIOA Funds and Relocation of a Business

13.0.1 WIOA funds may not be used for the encouragement or inducement of a business or part of a business to relocate from any location in the United States if the relocation results in any employee losing his or her job at the original location. No individual may be placed in work experience in any business or part of a business that has relocated from any location in the United States until the company has operated at that location for 120 days if the relocation has resulted in any employee losing his or her job at the original location. To verify that a business that is new or expanding and is not relocating, in fact, relocating employment from another area, a standardized Arkansas pre-award review criteria must be completed and documented jointly by the local area and the business (Form WIOA 5.1) [20 CFR 683.260].

14.0 Displacement of Current Employed Employee

14.0.1 A participant in any workforce training activity must not displace any currently employed employee (as of the date of the participation). This includes a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits. The workforce training activity must not impair existing contracts for services or collective bargaining agreements unless the appropriate labor organization and the employer provide written concurrence before the activity begins. The participant may not replace an unsubsidized employee who was laid off from the same or any substantially equivalent job or who was terminated with the intention of hiring the participant. The participant may not be placed in a promotional line that infringes in any way on the promotional opportunities of currently employed workers as of the date of the participation [20 CFR 683.270]

15.0 WIOA Employment Activity and Immediate Family

15.0.1 No individual may be placed in a WIOA employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual [20 CFR 683.200(g)]. See ADWS Policy No. WIOA I-B – 1.2 (Definitions) for the definition of "immediate family."

16.0 An OJT contract may be written for an eligible employed worker when the requirements of 20 CFR 680.700 described above are met and when the employee meets both of the following requirements [20 CFR 680.710]:

- 16.0.1** The employee is not earning a self-sufficient wage or wages compared to or higher than wages from previous employment, as determined by LWDB policy.
- 16.0.2** 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.

17.0 OJT Benefits and Working Conditions

- 17.0.1** Participants must receive benefits and working conditions at the same level as other trainees or employees working a similar length of time and doing the same type of work [20 CFR 683.275]. 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. To the extent that a State workers' compensation law applies, workers' compensation must be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment [20 CFR 683.280].

18.0 OJT for Youth

- 18.0.1** Although on-the-job training is classified as a work experience for the Youth program, the guidelines and policies for Youth follow those for Adults and Dislocated Workers [20 CFR 681.600(c)(4)].

19.0 State Wage Cap

- 19.0.1** An OJT wage cap is the upper limit on the hourly wage rate that is eligible for reimbursement. This amount is the average hourly wage for each state, as determined by the Bureau of Labor Statistics in the most recent Quarterly Census of Employment and Wages. The employer is reimbursed the agreed-upon reimbursement rate of either the normal wage for a position or of the state wage cap for the position, whichever is less. Program providers may enter into contracts with employers who pay participants more than the wage cap, but the employer cannot receive a training reimbursement beyond the contracted percentage of the wage cap. Employers are required to pay OJT participants the same wages, including periodic increases, as trainees or employees who are in similar occupations by the same employer and who have comparable training, experience, and skills. Wages paid must be at least the higher of the applicable Federal, State or local minimum wage [20 CFR 683.275; TEGl 13-15].

The most recent report of the average state wages (wage cap) is 2014 data. For Arkansas, this OJT wage cap is \$18.24.