



## TITLE: WIOA On-the-Job Training Policy # 5130

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**Status:** Final

**Supersedes:** WIA OJT Policy # 580-Rev3

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### Purpose

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This policy provides guidance regarding the limitations and eligibility of individuals to participate in On-the-Job Training (OJT) opportunities. WIOA provides for a workforce system that is job-driven. OJT opportunities provide structured training for participants to gain the knowledge and skills to be competent in the job for which they are hired and lead to stable employment.

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### Policy

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On-the-Job Training must be provided through a contract that provides a structured training opportunity for the OJT employee to gain the knowledge and skills to be competent in the job for which they were hired. An OJT employer may be reimbursed fifty (50) percent and up to a maximum of seventy-five (75) percent (with WDC program operator approval only), of the OJT employee's gross wage rate (not to exceed WA State OJT Wage Cap) to compensate for the extraordinary costs associated with the training. The OJT contract must be 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. The contract must be completed and signed by all parties before the OJT employee may begin the OJT training.

OJT may be sequenced with other WIOA program services, such as work experience or training.

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### Policy Guidelines

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#### Participant Eligibility

- OJT employees must meet program eligibility requirements for each funding source, i.e., WIOA Adult, Dislocated Worker or Youth formula funded programs.
- Participants who have received funding through an ITA, cohort or other WIOA funded training are also, eligible for an OJT.
- WIOA Program Operators must not contract with an employer who has previously exhibited a pattern of failing to provide OJT Employees with continued long-term employment.
- OJT may be provided for enrolled participants who are either employed or unemployed.

OJT requirements for employed participants include:

- The employed participant must be currently earning less than eighty (80) percent or more of the participant's gross wage or income at the time of dislocation; and
- The OJT must provide training for the introduction of new technologies, new production or new service procedures; upgrading to new jobs that require additional skills; or other appropriate purposes; and
- The OJT position must provide an increase in wage, hours and/or benefits to make the participant self-sufficient.

OJT contracts may be written with employers in another area when a participant must relocate or commute in order to obtain employment. However, the WIOA Program Operator may set limitations as to what is reasonable in setting up and monitoring an out of area OJT. If an OJT will be located in another workforce development area, contact the nearest WorkSource as a courtesy.

### **Employer Eligibility**

- The OJT employer must be registered with the Internal Revenue Service (IRS) and have an account with the Washington State Employment Security Department for Unemployment Insurance and carry Workman's Compensation Insurance.
- 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.
- No OJT agreement may 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. To verify the relocation has not resulted in a loss of employment, WIOA program staff and the OJT employer must complete a Standardized Pre-Award Review.
- 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.
- When an employer refers one of their employees (a reverse referral) to a WIOA program for On-the-Job Training, an OJT contract cannot be written until all of the program enrollment requirements are met.

- 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.
- 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.

### **Demand for Occupation in Labor Market**

- OJT positions must be for jobs that are in demand in the local labor market.
- Supporting In-Demand verifying documentation must be included in the participant file with OJT contract.

The following should not be considered for OJT: (See waiver information for exceptions.)

- Jobs that are entry-level and require minimal training;
- Jobs where the principle source of income is tips, commissions or piecework;
- Jobs that are intermittent or seasonal in nature;
- Jobs shown as in decline on the Demand/Decline List.

### **Guidance on Providing OJT in Religious Organizations**

The state and DOL have interpreted TEGL 1-05 – “...Changes to Religion-Related Regulations Governing Recipients of DOL Support...” to allow OJT in religious organizations when the participant is offered at least one option to which the participant has no religious objection (genuine and independent private choice). As with any OJT, the religious organization must adhere to all provisions of this policy including being able to effectively train the participant and have the ability to hire the participant upon successful completion of the OJT. Programs must document that the participant has been offered at least one option to which he/she has no religious objection and that the participant is making a genuine and independent private choice to accept the OJT. The one page justification is then filed with the OJT Contract and a case note is entered to acknowledge this issue and filing of the justification.

### **The OJT Contract**

Every OJT opportunity will include a contract (agreement) with the OJT employer and a Training Plan for the employee. The contract must include the requirements of WIOA rules and regulations; the occupation, skills and competencies to be learned; and the length of time the training will be provided.

Refer to OJT Procedure Document #5130P - for the approved sample OJT contract/agreement, including all necessary training and evaluation forms referenced in this policy

## **Cost Per Participant**

OJT Contracts may not exceed a total reimbursement amount of fifty (50) percent and up to seventy-five (75) percent (with pre-approval) of the maximum gross wage rate of \$25.26 (WA State OJT Wage Cap). The OJT duration may not exceed twenty-six (26) weeks or 1,040 hours. PacMtn may increase the amount of the reimbursement to an amount of up to seventy-five (75) percent of the wage rate after taking in to account the following factors:

- The characteristics of the participant(s) with an emphasis on barriers to employment.
- The size of the employer with an emphasis on small businesses (i.e., employers with fewer than 250 employees);
- The quality of employer-provided training (e.g., an industry-recognized credential, advancement opportunity);
- The number of participants the employer agrees to sponsor;
- The wage and benefit level of the participant (both during and after completion of the OJT);
- The OJT position is an in-demand occupation as determined by ESD labor market information;
- The OJT employer is:
  - in an “in-demand” industry as defined by WIOA Section 3(23) and determined by ESD labor market information; or
  - in a “balanced” industry as determined by ESD labor market information; or
  - in a “declining” industry, but there are compelling reasons (e.g., evidence of long-term viability of the employer) justifying reimbursement above 50 percent.
- The employer is current in unemployment insurance and workers’ compensation taxes, penalties, and/or interest or related payment plan.

The specific factors used when deciding to increase the wage reimbursement levels above 50 percent up to 75 percent must be documented.

WIOA participants who have utilized the maximum allowed under the most current ITA Policy may, also, qualify for up to \$4,000.00 for an OJT.

## Determining Training Duration-Specific Vocational Preparation (SVP)

Training will be limited to the period of time required for an OJT employee to become proficient in the position related to the training plan. PacMtn limits the training duration to not less than four (4) weeks and not more than twenty-six (26) weeks or 1,040 hours.

An upper limit for training duration is established using the Specific Vocational Preparation (SVP) estimates for occupations by the U.S. Department of Labor.

Training duration is negotiated with the employer on the basis of 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 take into account:

- a participant's disability, including the need for accommodations; and
- the program's available funding.

*Any discrepancies arising between PacMtn policy and or procedures with federal and state provisions due to current or future revisions will default to the current minimum federal and state regulations and guidance available. PacMtn policy and or procedures may set forth stricter requirements than provided by federal and state guidance, but in no case will PacMtn policy and or procedures not meet minimum federal and state policy.*

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## References

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| Workforce Innovation and Opportunity Act of 2014 |                   |                      |
| WIOA Section 3(23)                               | 20 CFR .317-.326  | 20 CFR 667.226(b)(1) |
| WIOA Section 3(24)                               | 20 CFR 663.700(b) | 20 CFR 667.270       |
| WIOA Sec. 181                                    | 20 CFR 663.700(c) | 20 CFR 667.274       |
| WIOA Sec. 181(b)(2)                              | 20 CFR 663.730    | 29 CFR 667.275       |
|  |                   | 20 CFR 667.410       |

PacMtn Procedures Document #580P - On the Job (OJT)  
PacMtn Policy # 540 - Individual Training Account (ITA)  
PacMtn Policy #330 - Organized Labor Comment and Concurrence  
State Policy 3645 Business Relocation: Standardized Pre-Award Review located at:  
<http://www.wa.gov/esd/policies/title1b.htm>  
WorkSource System Policy 1019 R3 & Attachment A, Eligibility Handbook,

NOTE: The Eligibility Policy Handbook is based on the best information available at this time per WIOA law, proposed rules, and DOL/ETA guidance. The handbook will be revised and reissued after the WIOA final rules are issued and as relevant DOL/ETA guidance is received.

Compliance with the state's eligibility policy will be based on the version of the handbook in effect at the time of the action or activity that may be at issue.

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