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| Policy No.  | **14** |
| Effective Date | 5/23/2019 |
| Approval  | GNWDB  |

**On-the-Job Training**

**Reference**

Workforce Innovation and Opportunity Act (WIOA) 134, 181, 194; 20 CFR § 680.320, 680.530, 680.700-680.750, 683.260-683.275, 683.410, 683.600; 29 CFR § 206(a)(1); Tegl 19-16; 84 FR 1167; Nebraska Department of Labor (NDOL) On-the-Job Training Policy.

**Policy**

**Background**

An On-the-Job Training (OJT) is training by an employer that is provided to a paid participant engaged in productive work to develop specific occupational skills or obtain specialized skills required by an employer that the participant does not already possess.

**Youth Priority**

Twenty percent of a state’s total WIOA Youth allotment after subtracting the administrative costs must be spent on work experiences for In-School and Out-of-School Youth. OJTs are considered a type of a Youth Work Experience.

**Participant Eligibility**

To be eligible for OJT services, the trainee must:

1. Be enrolled in the WIOA program; and
2. Have participated in assessment activities; and
3. Have a completed ISS/ IEP; and
4. Be unemployed.

**Employed Worker OJT Eligibility**

OJTs may be entered into with employed workers when the following additional criteria are met:

1. The employee is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment,; and
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, or workplace literacy.

The local board has set the criteria for a self-sufficient wage at 200% of Federal Poverty Guidelines. An individual in the Greater Nebraska Workforce Development area is considered to not be earning a self-sufficient wage when:

1. The individual’s gross earned income is not above 200% of the federal poverty guidelines; or
2. The individual is a member of a family whose combined gross earned income is not 200% of the federal poverty guidelines for its actual family size.

The chart in Attachment A shows family size and the 200% federal poverty guidelines.

**Eligible Employers**

OJT contracts may be entered into with private-for-profit businesses, private non-profit organizations, and public sector employers prior to a participant starting the new job. Employers receiving OJTs are exempt from the Eligible Training Provider List requirements. With successful completion, it is expected the employer will retain the participant after the training period.

**Ineligible Employers**

OJTs must not be entered into with an employer who has received payments who has previously exhibited a pattern of failing to provide participants with continued long-term employment as regular employees with wages, benefits (including health benefits), and working conditions at the same level and to the same extent as similarly situation employees.

OJTs may not be written with an employer whose business or any part of its business has relocated and employees at the employer’s other location(s) were laid off as a result of the relocation until the employer has been in operation at its current location at least 120 calendar days.

OJTs may not be written with temporary staffing agencies or employee-leasing firms for positions that will be “hired out” to other employers for probationary seasonal, temporary or intermittent employment. The only exception is when the OJT position is with the staffing agency itself and not a position that will be “hired out.”

**Registered Apprenticeships**

OJT agreements may be entered into with Registered Apprenticeship (RA) program sponsors or participating employers in Registered Apprenticeship programs for the OJT portion of the registered apprenticeship program.

Depending on the length of the RA, these funds may cover some or all of the RA training.

**Training Requirements**

OJTs must be directly linked to an in-demand industry sector or occupation in the local area or planning region, or in another area to which the participant is willing to relocate.

**OJT Payment and Training Length**

OJT payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and the costs associated with the lower productivity of such participants.

An OJT contract 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 individual employment plan. Actual training hours will be determined by the OJT Length Determination Form.

**Payment rate and rate considerations**

The appropriate payment by WIOA Title I is 50 percent of the wages paid by the employer to the participant during the period of the training agreement.

**Wages and Benefits**

Since an OJT is employment, state and federal regulations governing employment situations apply. The OJT trainee is an employee of the approved OJT employer. The employer is responsible for payment of wages and benefits to the trainee.

Participants in an OJT must be:

* compensated at the same rates, including periodic increases, as trainees or employees who are situated in similar occupations by the same employer and have similar training, experience, and skills; and
* Provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of job.

WIOA funds are not to be utilized for holidays, sick leave, vacation or overtime hours. Employers will be expected to compensate the trainee for such hours equal to other similarly situated employees and in accordance to state and federal labor law for any overtime hours worked.

Wage Rate Calculations:

* In cases where the OJT is for a salaried position, an hourly rate of pay should be calculated for reimbursement purposes by taking the gross monthly salary, multiplied by 12 then divided by 2080 hours (e.g. $2,600 x 12 = $31,200/2080 = $15).
	+ ***NOTE:*** With salaried positions, be sure that paid time off (i.e. vacation, sick, holiday, PTO) is not reimbursed*.*
* In cases where the trainee may receive two different rates of pay (e.g. regular rate and shift differential for evening/weekend hours), use the higher wage rate for the total duration to calculate the amount. Extra funds will be de-obligated at the end of the OJT.

**OJT Pre-award**

Prior to entering into an OJT contract with an employer, a pre-award must be completed by the employer and reviewed and signed off by the Career Planner and Regional Manager.

**OJT Contract**

An OJT contract with an employer can be written for a maximum of 1040 hours. Under no circumstances can an OJT contract be written for a participant if the hours of training required for the position in which the participant is to be trained is determined to be less than 160 hours.

The number of OJT training hours for a participant must be determined using the following Specific vocational Preparation (SVP) chart. The hours specified must be considered as a starting point for determining actual training hours. If the total number of training hours needed to successfully train a participant for the OJT position cannot be provided during the maximum contract length allowable, as many training hours as possible must be provided.

Occupation specific SVP codes can be found at onetonline.org.

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| **SVP\*LEVEL**  | **HOURS**  |
| **1**  | 80  |
| **2**  | 160  |
| **3**  | 480 |
| **4**  | 640  |
| **5**  | 800 |
| **6+**  | 960 |

OJTs are designed to be limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, prior work experience of the participant, and the IEP/ISS of the participant. The OJT training hours for a participant must be reduced if a participant has prior-related employment or training in the same or similar occupation. Previous training or experience, which occurred so long ago that skills gained from that experience are obsolete, may be disregarded to the extent that those skills need to be relearned or re-acquired.

**OJT Training Plan**

An OJT training plan must be established for each participant placed in an OJT and based on the skills to be acquired during the OJT. Each training plan must be unique and tailored to the specific training needs of the participant.

**Records Retention**

Each employer providing OJT must maintain records relating to the participant and the OJT for a period of no less than three years from the close of the applicable program year, or longer if any litigation or audit has begun or any claim is instituted which involves these records. In that case, the employer must retain the records for a period of no less than three years from the conclusion or resolution of the litigation, audit findings, or claim. The employer must allow access to those records for authorized entities, including local area staff performing the oversight and monitoring activities.

**Documentation/ Monitoring**

The participant need and eligibility must be documented in a case note and the ISS/IEP. An NEworks activity must also be opened.

A signed pre-award, contract, and training plan is required in the participant file prior to the start of work.

Monitoring will be completed at least once a month, in person or via phone or email, and must be documented in a case note and ISS/IEP. Monitoring must include participant progress, working conditions, compensation made and benefits provided to the participant, invoicing by and reimbursement to the employer, and recordkeeping and record retention by the employer, including records describing wages, benefits, time and attendance records, and other personnel records generated and maintained by the employer for other trainees or employees.

**Disclaimer**

This policy is based on Greater Nebraska’s reading of the applicable statutes, regulations, rules and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

**Attachment A**

**Federal Poverty Guidelines and 200% Guidelines**

Effective 1/11/2019, these guidelines are subject to change as the federal government issues updated policy guidelines.

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| **Family Size** | **2019 Poverty Guideline** | **200% Guideline** | **Self-Sufficient Hourly Wage** |
| 1 | $12,490 | $24,980 | $12.00 |
| 2 | $16,910 | $33,830 | $16.26 |
| 3 | $21,330 | $42,660 | $20.51 |
| 4 | $25,750 | $51,500 | $24.76 |
| 5 | $30,170 | $60,340 | $29.00 |
| 6 | $34,590 | $69,180 | $33.26 |
| 7 | $39,010 | $78,020 | $37.51 |
| 8 | $43,430 | $86,860 | $41.76 |

For families with more than eight person, add $4,420 for each additional person to the 2019 Poverty Guideline column.