



IMPERIAL COUNTY WORKFORCE DEVELOPMENT BOARD

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POLICY	ORIGINAL DATE	LAST REVISION
ON-THE-JOB TRAINING POLICY	FISCAL YEAR 2014-2015	December 14, 2022

POLICY OVERVIEW:

The purpose of this policy is to provide guidance and criteria used in the development and administration of On-the-Job Training (OJT) contracts. OJT contracts are contingent upon the availability of Workforce Innovation and Opportunity Act (WIOA) funds.

This policy is to be used by the Imperial County Workforce Development Board (ICWDB), Imperial County Workforce & Economic Development Office (ICWEDO) and America's Job Center of California (AJCC) staff, and Workforce Innovation and Opportunity Act (WIOA) Title I funded service providers.

REFERENCES:

- WIOA (Public Law 113-128) Section 134(c)(3)(H)(i); Section 134(d)(2); Section 134(d)(5); Section 181(e); Section 189(i)(3)(A)
- WIOA Section 3(44), Definition of On-the-Job Training
- WIOA Section 134(c)(3)(H)(ii) Reimbursement for On-The-Job Training
- WIOA Section 194 (4) General Program Requirements
- Title 20 Code of Federal Regulations (CFR), Section 680.190, 680.19; Section 680.700; Section 680.720(b)
- Training and Employment Guidance Letter (TEGL) 8-18, WIOA Title I and Wagner-Peyser Act Waiver Requirements and Request Process (December 19, 2018)
- National Emergencies (Public Law 94-412) Title II, Section 201, 90 Stat. 1255
- California Executive Order N-33-20 (March 19, 2020)
- Workforce Services Directive WSD19-06, CalJOBS Activity Codes (December 27, 2019)
- Workforce Services Information Notice WSIN20-52, COVID-19 WIOA Waivers (April 2, 2021)
- WSD 20-13 Covid-19 WIOA Waiver Guidance (June 9, 2021)

POLICY:

1. Overview of OJT

OJT is one strategy for individuals to receive training funded through the Workforce Innovation and Opportunity Act. Under WIOA Section 3 (44) the term "on-the-job training" means training by an employer that is provided to a paid participant while engaged in productive work in a job that:

- Provides knowledge or skills essential to the full and adequate performance of the job;
- Provides reimbursement to the employer for the costs associated with training the OJT trainee, which may be calculated up to 75 percent of the pay rate for the agreed-upon training period; and
- Is 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 participants, as appropriate.

2. Length of Training

This WIOA Title I financially assisted program or activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

An OJT contract must be limited to the period of time required for a participant to become proficient in the job for which the training is designed. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the job, the academic and occupational skill level of the participant, prior work experience, and the participant's Individual Employment Plan (IEP). The IEP must describe a timeline for completion of the training and shall not exceed the maximum allowable training hours of 1,040.

3. Employer Payments

Per WIOA, the maximum reimbursement rate may be up to 75 percent of the wage rate up to the maximum allowable training hours of 1,040. The reimbursement rate is based on one or more of the following factors:

- The characteristics of the participant (long-term unemployed, little or no work history, physical or mental disability, ex-felon):
- The size of the employer (50 or fewer employees),
- The quality of employer-provided training and advancement opportunities,

The formula to determine the amount of the OJT contract is:

- Total hours x hourly wage x reimbursement rate = amount of contract

For example, if the OJT is set up for maximum allowable hours at a wage of \$15.00 per hour, the contract amount would be as follows:

- $1040 \times \$15.00 \times 75\% = \$11,700$

In the event of illness, an additional two weeks may be allowed which is considered payment for extraordinary costs to the employer associated with training a new employee. OJT trainee wages are not reimbursable on days when the trainee is absent from work (whether paid or unpaid, approved or not approved – e.g. holidays, vacation, illness, instructor absence, company downtime) or other events in which no work occurred. Overtime hours, bonuses and/or commissions will not be reimbursed. The employer is responsible for ensuring that the Imperial County Workforce Development Office (ICWEDO) is not invoiced on such occasions.

The ICWEDO requires that a participant be contracted to work on a full-time basis and must work no less than 64 hours during a two-week pay period in order to process the OJT contract. Only the first week of training and the final pay period of OJT training may be less than the minimum 32 hours per week requirement. Under special situations and pending approval of the Imperial County Workforce Development Office (ICWEDO) Director, the minimum number of hours worked may be modified. The circumstances must be justified with supporting documentation.

ICWEDO and AJCC staff, and approved service providers, are strictly prohibited from requiring, or recommending, an OJT participant to sign an uncompleted, or blank, time sheet, or any other Imperial County Workforce Development Board approved form.

Covid-19 WIOA OJT Waiver

Under the DOL's Secretary of Labor waiver authority outlined in WIOA Section 189(i)(3)(A) and in TEGL 8-18, the Secretary may waive certain provisions of WIOA Title I. Part of the waiver lifecycle requires states to estimate and then regularly assess whether the waiver is successfully achieving state goals. As the goal of waivers is to provide opportunities to innovate and experiment with new approaches to service delivery, states with approved waivers must report in detail the waiver's impact and outcomes in the WIOA Annual Report. The DOL will consider outcome information as part of the criteria for granting renewal of a waiver, if requested.

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The OJT Waiver was approved as part of the Unified Strategic Workforce Development Plan Modification and may be used by approved Local Boards from July 1, 2022 through June 30, 2023. This waiver allows for businesses with 50 or fewer employees to be reimbursed up to 90 percent of their wage rate per OJT participant for the extraordinary costs of providing training and additional supervision related to the training. As part of the waiver request, California Projects that increasing the OJT reimbursement rate for qualified businesses would lead to a 25 percent increase in the number of adults and dislocated workers placed in OJT with small businesses for each full PY the waiver is in effect.

On June 9, 2021, the EDD released WSD 20-13 WIOA Waiver Guidance, which provided directives for the OJT Waiver. On November 30, 2022, ICWED's OJT Waiver Application was approved. This waiver supersedes the 75% limit and expires June 30, 2023.

4. Outreach Strategies

Outreach can be done directly or indirectly to both employers and job seekers. Outreach includes, but is not limited to: face-to-face contacts, electronic communication such as email and ICWEDO website, direct mailers, press releases, involvement with Economic Development Corporations, networking with other agencies, and speaking to civic organizations.

5. Employer Pre-Screening and Eligibility Requirements for OJT

OJT is provided under an agreement with an employer in the private non-profit, or private sector. Prior to entering into an OJT agreement, a pre-screening will be conducted to ensure that the employer meets the minimum standards and can provide both training and long-term employment to an OJT trainee. Employers must ensure:

- Company verifies WIOA funds will not be used to relocate operations in whole or in part
- Company has operated at current location for at least 120 days. If less than 120 days and the business relocated from another area in the U.S. and individual(s), employees were not laid off at the previous location as a result of the relocation;
- *Company commits to retaining OJT trainees for a period of no less than one year;*
- If the company has a collective bargaining agreement, the OJT contract does not impair existing contracts for services or collective bargaining agreements. If, as a program authorized under Title 1 of WIOA, the OJT would be inconsistent with a collective
- bargaining agreement, the program obtains written concurrence from the appropriate labor organization and employer before the OJT activity begins;
- OJT funds will not be used to directly or indirectly assist, promote or deter union organizing;
- The OJT will not result in the full or partial displacement of employed workers;
- The OJT trainee is employed under a payroll system that includes documentation of attendance, dates worked and number of hours worked per date, computation of gross wages, deductions, and net pay, and a maintenance system for cancelled checks;
- Employer agrees that wage and labor standards will be adhered to and to pay the OJT trainee no less than the State minimum wage and at the same rates, including increases, as trainees or employees who are situated in similar jobs;
- Trainees will be provided the same workers' compensation, health insurance, unemployment insurance, retirement benefits, etc. as regular, non-OJT employees; and
- The employer will comply with all applicable Federal, State, and local laws and regulations, including those dealing with employment, discrimination, safety, health, the Fair Labor Standards Acts, WIOA and its regulations.

6. Employer Past Performance

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Only businesses with a history of successful training and retention of OJT employees will be considered as repeat OJT sites. The local program will not contract 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.

7. OJT Trainee Requirements

Training services may be made available to employed and unemployed adults and dislocated workers who: (a) Received at least one individualized career service and been determined to be unable to obtain or retain employment through such services; (b) After an interview, evaluation, or assessment, and case management, have been determined by the designated OJT coordinator to be in need of training services, and to have the skills and qualifications to successfully complete the selected training program.

An individual referred to an America's Job Center of California (AJCC) by an employer may be considered for OJT with that employer only after the individual has met individualized career services eligibility requirements, received an assessment, and for whom an IEP has been developed which indicates an OJT is appropriate based upon the skill requirements of the occupation; the academic and occupational skill level of the participant; the participant's prior work history and experience; and the participant's level of commitment to program services and likeliness to succeed. The IEP documentation of a participant's appropriateness for OJT is required prior to the employer selecting an OJT trainee.

8. Required Documents

The following documents will be required to effectively implement an OJT:

- ICWEDO RULES/PROVISIONS FOR ON-THE-JOB TRAINING PROGRAMS
- IMPERIAL COUNTY'S GENERAL CONTRACT PROVISIONS
- OJT TRAINING OUTLINE
- WORKFORCE AND INNOVATION OPPORTUNITY ACT (WIOA) ON-THE –JOB TRAINING (OJT) CONTRACT NEGOTIATED FIXED PRICE CONTRACT
- ON-THE-JOB TRAINING AUTHORIZATION SIGNATURE CARD WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)
- IMPERIAL COUNTY WORKFORCE DEVELOPMENT OFFICE ON-THE –JOB TRAINING (OJT) INVOICE

An ICWEDO OJT Invoice, containing a bi-weekly evaluation that is to be completed by the participant supervisor, will be provided to employers. Employers will then submit the OJT Invoice to the OJT coordinator with an accompanied payroll record for the pay period.

A. OJT Contract Minimum Requirements

Contracts are the terms and conditions that the employer and OJT provider agree to provide. At a minimum, an OJT contract must comply with the requirements of WIOA rules and regulations including identifying the occupation, skills and competencies to be learned, and the length of time the training will be provided.

In addition, as stated in IMPERIAL COUNTY'S GENERAL CONTRACT PROVISIONS, (7.0) "RETENTION OF TRAINEE: In accordance with current local WIOA regulations the Trainee shall be retained for at least 365 days after successful completion of the job training period at the wages agreed upon in the Contract or a higher wage."

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An OJT Contract is considered to be a legally binding agreement between the employer and OJT provider. Three original signed OJT Contracts are required; an original for the ICWEDO, the Employer and the Participant.

B. Employer Orientation

The OJT coordinator will conduct an employer orientation with each employer and/or employer representative to discuss the contract provisions and training plans. The contract process sets the ground-rules for OJT with an employer and ensures there is a legally binding agreement between the employer and the ICWEDO. OJT employers must be aware of the following:

- OJT participants must receive wages and fringe benefits equal to those similarly employed by the employer;
- That the occupation provides for at least an average of 32 OJT hours of employment per week;
- The reimbursement mechanisms of an OJT are not a wage subsidy;
- That the occupation does not involve training in political or religious activities;
- That the OJT enrollment does not displace and/or replace regular employees with a WIOA client;
- It is expected that the participant will continue working after the payments to the employer end; and
- *It is expected that participants who complete an OJT will continue to receive compensation and benefits commensurate with the job performance for a period of no less than one year.*

C. Training Plans

After determination of the occupation in which the participant will be trained, an OJT training plan must be developed to allow for the monitoring of agreed upon contract provisions and the progression of the established training program. The training plan should serve as a guide when delivering training. This plan will be a formal and written program of the structured job training that will provide participants with an orderly combination of instruction in work maturity skills, general employment competencies and occupationally specific skills that will enable the participant to work toward self-sufficiency.

OJT providers can use O*NET and/or a company job description as a basis to begin listing skills or tasks. Skill descriptions should be concise and comprehensive and ensure that individual tasks are both measurable and observable. All OJT Training Plans must include:

1. Trainee information – name and contact information of participant and Social Security #;
2. Employer information – name and contact information;
3. OJT information – start and end dates, wage rate, and reimbursement rates;
4. Occupational information – job title and description, O*NET code, and number of hours per week. O*NET should not be relied upon exclusively at the risk of overlooking the needs, skills, and abilities of the participant and the specific needs of the employer;
5. Job skills – skills necessary to perform the job and the trainee's skill level for each;
6. Training information – list of specific skills or tasks the employer agrees to provide to the participant, estimated training hours for each skill, and acknowledgement of skill obtained;
7. Signatures – of trainee and date, of employer and date, and of OJT provider and date; and
8. Employer proof of worker's compensation and unemployment insurance coverage and any other documents that may be required from the employer in order to commence OJT.

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D. Invoicing

Payments to employers for OJT shall be in compliance with WIOA program guidelines. Payments to employers are in compensation for the “extraordinary costs” associated with training participants. Employers are not required to document these extraordinary costs associated with training of participants, which may include more intense supervision; abnormal wear on tools; down time; and lower rates of production.

Payment to employers should be managed by an invoice system that clearly documents the number of hours worked each day by the participant and rate of pay for the time period.

Invoices should be submitted to the ICWEDO on a bi-weekly or monthly basis and must be signed by the participant, the employer or employee’s supervisor(s), along with an approved ICWEDO invoice form that identifies total hours worked during the invoice period a payment method (e.g. check stub). The employer can invoice only for hours worked within the OJT contract period. Also, payments to employers must be based on scheduled raises and regular pay increases, if they occur.

The employer will maintain all financial, attendance, and miscellaneous records relating to the OJT contract and will preserve the same for a period of not less than three years from the date of the final contract payment. Such records may be required to be retained beyond said period if an audit has begun but is not completed, or if the audit findings have not been resolved at the end of the required retention period. In such cases, the records shall be retained until resolution of the audit findings.

I. OJT Funding Limitation

The maximum OJT amount authorized per trainee is \$10,000. However, a waiver to the limit may be allowed and approved by the ICWEDO Director or by the ICWEDO Business Services Supervisor. Consideration and approval of such payments will be based upon, but limited to, the occupation of training, the participant’s work history, labor market conditions, hourly wage, fringe benefits, promotional opportunities, and the ICWEDO’s overall training budget.

II. Partial Payment

A partial payment may be made for incomplete contracts when the employee voluntarily leaves employment or when the employer must terminate the individual prior to contract completion. It is the responsibility of the employer to notify the ICWEDO in the event of any action that may affect the successful completion of the OJT contract.

E. OJT Agreement Modification

In the event of a local, state or federal emergency declaration, a program participant’s time commitment, stipend structure, and/or work experience terms may be modified at the discretion of the ICWED Director.

Under emergency situations, a digital signature is considered a valid signature. The client’s original/digital signature on their program application will be validated by the site supervisor and all additional documentation. The site supervisor will be required to initial all applicable forms confirming the individual’s signature is valid.

In order to avoid any potential delays in the OJT contracting process, the ICWEDO Director will have the discretion to amend the allowable amount, duration, and/or any extraordinary amendments required for the successful implementation of an OJT.

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MONITORING:

Monitoring will take place by ICEWDO staff. To ensure validity and correctness of the reimbursement amounts claimed, and that the training for which the contract is written is actually delivered. Monitoring at the local level will include ICEWDO staff monitoring and oversight of the participant training and corresponding employer payroll records. The on-site monitoring of the OJT will include documenting information received directly from the trainees, the trainee supervisor's perspective about how the training is progressing, and a review of the employer payroll records.

In addition to the on-site visit(s), regular contact with the participant and the employer is expected and should be recorded in the participant's file. *At a minimum, this type of contact will occur monthly by telephone, on-site, or via email.*

ACTION:

Please bring this policy to the attention of ICWDB, AJCC system staff and appropriate WIOA funded service providers and sub-recipients. This policy is effective immediately. All submitted forms are live documents and subject to change according to local, State, and Federal needs. Once the forms and exhibits pertaining to this policy are approved by the ICWDB, they will not require board approval if other changes occur, unless the change affects protocols. Should you have any questions, please feel free to contact ICWDB staff at (442) 265-4974, (442) 265-4959, (442) 265- 4955 or the Program and Compliance Manager (442) 265-4963.