

MISSISSIPPI DEPARTMENT of EMPLOYMENT SECURITY
State Policy Number 14
ON-THE-JOB TRAINING AND CUSTOMIZED TRAINING POLICY
Workforce Innovation and Opportunity Act (WIOA)

I. SCOPE AND PURPOSE

The purpose of this policy is to provide the Local Workforce Development Boards (LWDBs) guidance and procedures to facilitate the development of On-the-Job Training (OJT), Customized Training (CT), and other employer-based training or wage subsidized activities for Adults and Dislocated Workers.

References:

- Workforce Innovation and Opportunity Act (WIOA) Public Law 113-128
- Notice of Proposed Rulemaking and subsequent Federal Regulations to follow

II. REQUIREMENTS

Each Local Workforce Development Area (LWDA) is required to develop OJT and CT policies and procedures that address meeting the needs of employers and workers and promote development of a skilled workforce. LWDA policy must follow the guidelines set forth in this policy but may be more restrictive. From time to time, the Mississippi Department of Employment Security (MDES) or the local areas may request and be granted waivers applicable to OJT and CT. Those waivers may override this policy.

A. Definitions

1. **On-the-Job Training (OJT)** is defined in WIOA Sec. 3 (44). It is employment with a public, private, or nonprofit employer that:
 - a. Includes a good faith expectation of continued employment of an individual upon successful completion of the training;
 - b. Provides knowledge and skills essential to the full and adequate performance of the job;
 - c. Provides reimbursement to the employer for up to 50% of the participant wage amount, which is deemed to be compensation for training, additional supervision and lower productivity related to the training; and
 - d. Is limited in duration, as appropriate to the occupation for which the participant is being trained, taking into account the training content,

the participant's prior work experience, and the participant's service strategy.

2. **Customized Training (CT)** is provided by an employer or an employer selected vendor and meets the following criteria:
- a. Is occupational or industry-specific training designed to meet the special requirements of an employer or a group of employers;
 - b. Includes a commitment by the employer to employ or to continue to employ an individual upon successful completion of the training;
 - c. Requires that the employer pay for not less than 50% of the cost of training; and
 - d. Relates to the introduction of new technologies, production procedures or service procedures; provides additional skills required to upgrade to new jobs; or provides other training based on a case-by-case assessment of need, given local policies regarding priority of services.

B. Eligible Participants

A good candidate for OJT or CT is an eligible WIOA participant who is appropriate for long-term employment in a particular industry or occupation, but does not have all of the skills or the experience to qualify for, retain employment in, or advance in the field. Participants placed in an OJT or customized training position should also be appropriate for long-term employment with the particular company providing the placement.

Approval of an eligible participant for subsidized OJT or CT is contingent upon unemployment or underemployment as defined by the Local Workforce Development Board.

C. Appropriate Employers

Employers must be willing to work closely with program staff and notify them if issues or problems occur. Employers need to have some flexibility in working with participants who have issues that may be barriers to employment (transportation, childcare, personal adjustment problems, etc.) The service provider will help address these issues throughout the OJT period and, in some cases, into long term employment.

OJT and CT funds cannot be used to encourage or induce the relocation of an employer that results in the loss of employment of any existing employee in the

United States. Further, if a relocation employer expands its operation, a LWDB cannot approve an OJT or CT request from the employer for the first 120 days of operation after relocation, if the relocation has resulted in loss of employment for an existing employee at the original United States location.

D. Pre-Award Review

The pre-award review must include knowledge of:

1. Names under which the establishment does business;
2. The name, title, and address of the company official authorized to sign the OJT contract;
3. Whether WIOA assistance is sought in connection with past or impending job losses at other facilities;
4. Whether wage payments can be easily verified; and
5. Workers' compensation or equivalent coverage permitted by Mississippi law.

E. Subsidy Limits

Subsidy for an OJT or CT position is limited to 50 percent of total wages paid during the training period (OJT only) or 50 percent of the training costs paid by the employer (CT). Please refer to WIOA section 134(c)(3)(H), which allows changes to the subsidy percentage in certain circumstances and for a set time frame.

Payments to employers are considered compensation for the extra cost associated with developing and implementing training and for initially reduced productivity of participants. The actual time spent by the supervisor on training need not be documented. The training content need not be different than that offered to other, unsubsidized employees. The OJT reimbursement request need not include a calendar, hours worked, or differentiation between regular, overtime, holiday, or sick pay.

F. Period of Reimbursement

The period of reimbursement must be limited to the period of time required for a participant to become proficient in the occupation for which training is being provided. In determining the appropriate length of an OJT or CT position, local areas should consider:

1. The skill requirements of the occupation,

2. The skill level of the participant,
 3. The participant's prior work experience, and
 4. Barriers shown in the participant's Individual Success Plan
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Local areas may choose to set specific time limits for the duration of OJT and CT. An OJT or CT position may be extended as deemed reasonable.

G. Workers' Compensation

The employer is required to cover all approved OJT and CT participants with workers' compensation insurance or an equivalent.

H. Employer Pattern of Failure

Requests from an employer who has exhibited a pattern of failing to provide OJT or CT participants with continued long-term employment should not be approved until corrective action has occurred. The local area should adopt a policy or procedure defining "failure" and the process to be followed when a failure situation occurs.

I. Contracts

OJT and CT contracts should, at a minimum:

1. Identify the occupation, skills, and competencies to be learned;
2. Specify the length of training time provided;
3. Define what constitutes successful completion of training;
4. Identify the percentage rate used for reimbursement to the employers;
5. Identify the employer's cost for training (CT only); and
6. Contain or reference required assurances.

J. Evaluation of Employer and Trainee Progress

Local areas or service providers should evaluate approved OJT and CT contracts regularly. Evaluation requires a meeting with the employer and the trainee(s) to review work performance and/or training progress. In addition, the OJT/CT evaluator should review payroll records (OJT only) and CT cost documentation.

K. Method of Reimbursement

Local areas should have in place reimbursement procedures for OJT and CT contracts and should provide that information to employers.

L. Reimbursement Exception Clause

Under limited extenuating circumstances, local area staff or directors, under the guidance and approval of the local boards, may waive reimbursement procedure requirements.

III. EFFECTIVE DATE

This policy is effective immediately. It will remain in effect until rescinded or replaced.



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