NORTHWEST OREGON WORKS	**POLICY P07: ON-THE-JOB TRAINING**
	Effective Date: 10/14/2021
	☒NEW **☐REVISED**

PURPOSE
Section 134(c)(3)(H) of the Workforce Innovation and Opportunity Act (WIOA) allows reimbursement to employers for On-The-Job Training (OJT) participants. This policy conveys the local requirements for the development of OJT opportunities and contracts.

POLICY
Northwest Oregon Works (NOW) encourages the use of OJTs by its contracted service providers to better meet the needs of job seekers and keep good jobs to help local employers by offsetting extraordinary costs of training employees.

OJTs is a hire-first program. In consideration of the costs incurred by employers for hiring and training a new employee, a portion of the employee's wages may be reimbursed for a limited duration. OJTs are intended to encourage the development of in-company training programs that lead to transferrable skills for eligible individuals who would not otherwise be hired or promoted.

The decision to enter a contract with an employer is at the discretion of NOW and its contracted service providers and is not an entitlement for employers.

Eligible Participants
An individual may be considered for an OJT when he/she has met the eligibility requirements for the adult or dislocated worker program and determined to need training services. Once deemed eligible, the individual will receive an assessment and may develop an Individual Employment Plan (IEP) demonstrating that an OJT is appropriate. The individual may also be considered for other types of work-based learning under WIOA.

Individuals who are employed may be placed in an OJT either with an eligible employer for whom the employee currently works or with another eligible business offering the individual the OJT. OJT contracts may be written for eligible employed workers when:

- The employee is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment.
- 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 determined by NOW.

Proper program eligibility is required for each funding source, e.g., WIOA Adult and Dislocated Worker formula programs (including Statewide Activities), and National Dislocated Worker Grants (DWGs). Participants may be co-enrolled in partner programs such as Trade Adjustment Assistance (TAA) and receive an OJT. WIOA and other funds (such as TAA) must be managed in a coordinated manner to best meet the needs of the participants and to avoid paying for training costs twice. Providers will determine the reimbursement percentage allowable under all applicable funding streams when issuing an OJT to ensure that one funding stream does not reimburse a portion of wages that could have been reimbursed through another funding stream.

Participant Considerations

Regardless of the funding stream, 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 IEP. Providers should take into account the following considerations before placing a participant in an OJT program:

- Does the participant have a need for training?
- Does the participant need to learn skills for the desired position, or do they already have those skills?
- What is the best way for the individual to obtain the skills needed (i.e., OJT or occupational skills training or both; if both, is a registered apprenticeship program appropriate)?
- Can the position be obtained at this business without OJT training?
- Is the participant likely to succeed in training?

Factors used to determine appropriateness of this service for a participant may include the participant's need for occupational training, the participant's job readiness, match of the job to the participant's needs, interests, and employment objectives, as well as capability of the participant to complete the training.

If a need and/or ability to benefit cannot be documented, a direct placement or referral to other services should be considered. It is the responsibility of providers to determine if a participant is likely to complete/succeed prior to engaging employers whenever possible.

Eligible Employers

Contracted service providers enter into OJT contracts and provide OJT reimbursements only to eligible employers that meet the following criteria:

a. Have the capacity and resources to adequately train the OJT candidate with the intent of retaining the employee in long-term, full-time employment.
b. Enter a signed training contract that details the training and retention expectations of the employee, the employer, and the contracted service provider.

c. Have adequate payroll and record keeping systems in place.
d. Have the explicit agreement of the bargaining agent if OJT positions are covered by collective bargaining agreements.
e. Provide the same rate of pay, fringe benefits and working conditions offered to the OJT trainee as similarly situated employees in similar positions in the local labor market.
f. Have adequate Workers' Compensation or accident insurance coverage is in effect.

Preference should be provided to employers operating within in-demand sectors or providing in-demand occupations or providing higher wages. Some fund sources ban the use of OJTs with public sector employers, casinos, gaming establishments, swimming pools, aquariums, zoos, golf courses and faith-based organizations. Service providers are expected to comply with the restrictions of the applicable funding sources. If the employer of record is a staffing agency, both the staffing agency and worksite employer must sign and adhere to the terms of all OJT agreement.

Service providers will not enter an OJT contract when:

a. OJT positions result in the displacement of current workers who are on layoff status with recall rights from the same or any substantially equivalent job or are terminated with the intention of filling the vacancy with an OJT participant.
b. The OJT position infringes on the promotional opportunities of currently employed workers.
c. The OJT would result in the reduction of hours of non-overtime work, wages, or employment benefits of any currently employed employee.
d. The employer has relocated all or part of their business within the previous 120 days where the relocation action has resulted in the loss of employment of any employee at the original location.
e. Employer has been convicted of violating federal laws and regulations.
f. Employer received OJT payments under contracts under WIOA or the Workforce Investment Act of 1998 and exhibited a pattern of failing to provide participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

OJT Training Duration

OJT contracts 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, taking into account the content of the training, prior work experience of the participant, and the service strategy of the participant, as appropriate.

Reimbursement
Employers may be reimbursed only for the portion of the trainee's wages agreed upon in the OJT contract. Employers may be reimbursed only for time the trainee was actually on the job and receiving training. OJT payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and potentially lower productivity of the participants while in the OJT. Employers are not required to document such extraordinary costs. Reimbursement to the employer may not exceed 50 percent of wages paid during the training period except in the following conditions:

a. The employer has fewer than 100 employees.
b. The employer-provided training results in an industry-recognized credential and advancement opportunities.
c. More than one employee is participating in the training.
d. The pre and post wage and benefit levels of the participating employees exceed local median incomes,
e. The training results in increased competitiveness.
f. The OJT position is an in-demand occupation or industry as identified by the local board in alignment with WIOA Section 3(23).
g. The participant faces barriers to employment as defined in WIOA Section 3(24).

If one or more of the above conditions are met, NOW may grant an exception to the reimbursement amount not to exceed 75 percent of the wages paid during the training period. The provider will request an exception, in writing, to NOW.

The Executive Director may authorize OJT reimbursement in excess of 50 percent, and not exceed 75 percent, of the wages paid during training if warranted for a specific period of time due to local economic conditions, demand for services, or funding source.

NOW will document all factors used when deciding to increase the wage reimbursement levels above 50 percent up to 75 percent.

DEFINITIONS
On-the-job training: Training provided by employers to paid participants in the form of productive work in jobs that (1) provide the knowledge or skills essential to the full and adequate performance of the jobs, (2) are available through programs that provide reimbursement to employers of up to 50 percent of the participants' wages, with the exception provided by this policy, for the extraordinary costs of training and additional supervision related

to the training, and (3) are limited in duration as appropriate to the occupations for which participants are being trained, taking into account training content, participants' prior work experiences, and participants' service strategies.

Reimbursement Rate. A reimbursement rate, or reimbursement level, refers to the percentage of the OJT participant's hourly wage or wage cap that can be reimbursed to an employer.

In-Demand Industry Sector or Occupation: In general, (i) an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, as appropriate, contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or (ii) an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate. The determination of whether an industry sector or occupation is in-demand shall be made by the state board or local board, as appropriate, using state and regional business and labor market projections, including the use of labor market information.

REFERENCES

WIOA Regulations at 20 CFR, parts 680.200, 700, 710, 720, 730

TEGL 2-15, "Operational Guidance for National Dislocated Worker Grants, pursuant to the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act)."

TEGL 19-16, "Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules."

OJT Toolkit https://ion.workforcegps.org/resources/2017/12/01/11/19/On-the-Job-Training-Toolkit