



Workforce Innovation and Opportunity Act Formula-Funded On-the-Job Training Policy

Background and Purpose

The Workforce Innovation and Opportunity Act (WIOA) defines “on-the-job training” (OJT) as 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 of up to 50 percent of the wage rate of the participant for the extraordinary costs of providing training and additional supervision related to training; and
- Is limited in duration 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.

Philadelphia Works adopts this policy to guide the investment of WIOA title I funds in OJT opportunities. The investment of funds will be driven by our strategic priorities, high priority occupations and related targeted industry clusters but most importantly by local employers with an unmet workforce need.

Fund Reimbursement

The maximum amount of OJT funding per participant is \$8,000. Philadelphia Works will typically reimburse an eligible employer up to 50 percent of an OJT participant’s wage rate during the OJT (for the extraordinary costs of providing the training, potentially lower productivity of the OJT participants, and additional supervision related to the OJT). Providers must review actual costs to ensure they are commensurate with the type of training being proposed.

- In limited circumstances, based on factors including employer size, career seeker barriers, availability of funding, and other applicable factors, an employer may request that the President/CEO of Philadelphia Works waive the \$8,000 funding cap to provide additional support.
- Philadelphia Works will report the number of waivers provided and the factors that led to the issuance of a waiver on a semi-annual basis to the Board of Directors.

For those OJT opportunities that are funded through temporary, grant or any other federal/state dollars, the costs per trainee can exceed the training cap established by this policy up to the maximum amount permitted by the relevant funding source.

In limited circumstances, Philadelphia Works will increase the reimbursement level to up to 75 percent taking into account the following factors:

- The characteristics of the participants taking into consideration whether they are individuals with barriers to employment;
- The size of the employer, with an emphasis on small businesses;
- The quality of employer-provided training and advancement opportunities, for example if the OJT contract is for an in-demand occupation and will lead to an industry-recognized credential;
- Other relevant factors, as appropriate.

Providers must document the factors used when deciding to increase the wage reimbursement levels above 50 percent up to 75 percent.

Participant Eligibility

Customers of the PA CareerLink® centers who meet the eligibility requirements for training will have access to OJT opportunities. The length of training is determined by the approved training plan.

OJT opportunities may be made available to unemployed adults and dislocated workers who:

- After an interview, evaluation or assessment and career planning¹, staff have determined that the individual:
 - Is unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previously employment through career services.
 - Is in need of training services to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment.
 - Has the skills and qualifications to participate successfully in training services.
- Have selected a program of training services that is directly linked to the employment opportunities in the local area or the planning region, or in another area to which the individuals are willing to commute or relocate.
- Are unable to obtain grant assistance from other sources to pay for training.
- Are determined eligible in accordance with the State and local priority system, if training services are provided through the adult funding stream.

The participant's case file must contain a determination of need for training services as determined through the interview, evaluation, or assessment and career planning informed by local labor market information and training provider performance information, or through any other career services received. In addition to objective trainee assessments, all OJT requests are subject to review by Philadelphia Works and must be reasonable based on factors such as trainee experience, appropriate hourly wages, trainee needs, work experience and any other relevant factors.

OJT for Employed Workers

An individual who is employed may also qualify for an OJT if he/she is considered underemployed. An individual is determined to be underemployed if:

- The employee is currently working but not earning the self-sufficient training wage of \$13.00/hour (see *Philadelphia Works Self-Sufficiency Policy*) or its annualized equivalent of \$20,280/year as determined by Philadelphia Works' local policy;
- The employee is currently working in a temporary capacity and the OJT facilitates a transition to full-time employment;
- The employee meets all other applicable requirements; and
- The training 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 as identified by Philadelphia Works.

An individual who was previously employed in a full-time position that paid more than the self-sufficient wage will not be eligible for an OJT if that individual intentionally resigned from his or her previous position in order to receive OJT funding.

Employer Eligibility and Requirements

¹ When appropriate, a recent interview, evaluation or assessment may be used for the assessment purpose

OJTs are available to employers or registered apprenticeship program sponsors in the public, private non-profit, or private sector. (For use of OJT contracts for apprenticeship programs see *Philadelphia Works WIOA Apprenticeship Policy*) An OJT contract will not be approved for an employer who has received payments under previous contracts under WIOA or the Workforce Investment Act (WIA) if the employer has exhibited a pattern of failing to provide OJT 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 other employees working a similar length of time and doing the same type of work. OJT funds will not be used to directly or indirectly aid in the filling of a job opening which is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage.

Employee Compensation

In order to qualify for an OJT, an employer must certify that the position will meet the Philadelphia Works OJT self-sufficient wage of \$13/hour at a minimum of 30 hours per week with evidence that the position is on a career pathway towards higher level and/or higher paying jobs upon completing the OJT.

- Based on the priorities outlined in WIOA and the guiding principles of OJTs generally, in situations where collective bargaining agreements or similar formal arrangements exist and, as a result of these agreements, employers are able to show an actual career pathway progression by which an individual will attain self-sufficiency within a reasonable period of time, Philadelphia Works may utilize its discretion to extend the time in which an individual is expected to reach the self-sufficiency wage level.
- Individuals in OJTs must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills. Individuals in OJTs must also be offered 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 work.

Employer Referrals

- Employers are encouraged to refer interested candidates to the PA CareerLink® centers for services.
- OJT funds are not permitted for employers who have already identified their own trainee, have an intention to hire that trainee and refer that trainee to the PA CareerLink® for the sole purpose of having that participant qualify for and receive an OJT.
- Employers must accept referral of, consider and interview PA CareerLink® referred OJT trainees.

Length of Training

An OJT contract will 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 will be given to the skill requirement of the occupation, the academic and occupational skill level of the participant, prior work experience and the participant's individual employment plan.

Regulatory Limitations and Prohibited Activities

- WIOA title I funds must not be spent on:
 - Construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings;

- Sectarian activities;
- Wages of incumbent employees during their participation in economic development activities provided through a Statewide workforce investment system; Public service employment, except to provide disaster relief employment, as specifically authorized in section 194(10) of WIOA;
- Expenses prohibited under another Federal, State or local law or regulation;
- Subawards or contracts with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal programs or activities;
- Contracts with persons falsely labeling products made in America;
- Foreign travel;
- Funds provided to employers for OJTs must not be used to directly or indirectly assist, promote or deter union organizing.
- Funds must not be used or proposed to be used for the encouragement or inducement of a business or part of a business to relocate from a location in the United States if the relocation results in any employee losing his or her job at the original location.
- Funds must not be used or proposed to be used for any business or part of a business that has relocated from a location in the United States, until the company has operated at the new location for 120 days, if the relocation has resulted in any employee losing his or her job at the original location.
- A participant in an OJT will not be employed in or assigned to a job if:
 - Any other individual is no layoff from the same or any substantially equivalent job;
 - The employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy with the participant; or
 - The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.
- A participant in a program or activity authorized under title I of WIOA must not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).
- OJTs are not intended to impair any existing contracts for services or collective bargaining agreements. When a program or activity authorized under title I of WIOA would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the program or activity begins.

Key Definitions

“High Priority Occupations” are job categories, within selected industry clusters, that are in demand by employers, have higher skill needs and are likely to provide family-sustaining wages.

The “individual employment plan” is an individualized career service that is developed jointly by the participant and the career planner when determined appropriate by the one-stop center or one-stop partner. The plan is an ongoing strategy to identify employment goals, achievement objectives, and an appropriate combination of services for the participant to achieve the employment goals.

“Individual with a Barrier to Employment” means a member of 1 or more of the following populations:

- Displaced homemaker.
- Low-income individuals.
- Indians, Alaska Natives, and Native Hawaiian, as such terms are defined in WIOA section 166.

- Individuals with disabilities, including youth who are individuals with disabilities.

- Older individuals.
- Ex-offenders.
- Homeless individuals (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), or homeless children and youths (as defined in section 752(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434(a)(2)))
- Youth who are in or have aged out of foster care.
- Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers.
- Eligible migrant and seasonal farmworkers, as defined in WIOA section 167(i).
- Individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).
- Single parents (including single pregnant women).
- Long-term unemployed individuals.
- Such other groups as the Governor involved determines to have barriers to employment.

“On-the-job training” is 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;
- Is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in WIOA section 134(c)(3)(H), for the extraordinary costs of providing the training and additional supervision related to the training; 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 participant, as appropriate.

References

- Workforce Innovation and Opportunity Act (WIOA), Public Law 113-128, enacted July 22, 2014
- Workforce Innovation and Opportunity Act Regulations, 20 CFR Parts 680, 683
- Pennsylvania Department of Labor & Industry, Workforce System Policy No. 06-2015, April 7, 2015, *Training Expenditure Targets and Definitions of Types of Training for Benchmarks*

Contact

Inquiries regarding this policy should be directed to Jamece Joyner, Philadelphia Works Manager of Cross Center Services (jjoyner@philaworks.org).

Effective September 28, 2016²

² Changes in policy will not apply retroactively to OJT commitments that were made prior to the effective date