

Work Based Learning Policy

Effective Date: 10/01/2018

Duration: Indefinite



BACKGROUND:

WIOA provides for a workforce system that is universally accessible and customer centered, and training that is job-driven. WIOA also provides enhanced access and flexibility for work-based learning options for Adults, Dislocated Worker and Youth participants. This WBL policy affirms the WIOA commitment to providing high-quality WBL opportunities as an effective service strategy to assist job seekers in entering and advancing along a career pathway in in-demand industries and occupations. Priority will be placed on NETLWDB defined sector strategies. This WBL sets the stage for the incorporation of more WBL opportunities.

PURPOSE:

The purpose of the Work-Based Training policy in the WIOA Title I Adult, Dislocated Worker and Youth programs is to provide procedures for implementing and managing training agreements/contracts for Work-Based Training, including:

- On-the-Job Training
- Apprenticeship Training
- Transitional Jobs
- Customized Training
- Work Experience
- Pre-Apprenticeship Training
- Job Shadowing

Careful consideration should be given when selecting a suitable employer for all other training services. General business practice in terms of working conditions (safety, health), turnover rates, adequate staff and equipment to carry out the training, and whether the employer is in compliance with federal, state and local laws, etc. are potential indicators for NETLWDB Staff to research.

General Requirements for Participant Eligibility for WBL Services – Work Based Learning opportunities must be identified as an appropriate activity for program participants on the Individual Employment Plan or Individual Service Strategy and appropriate WBL Training Plans that will identify the goals of the Work-Based Training activity and outcomes expected. This does not apply to Incumbent Worker Training as discussed in this policy.

On-the-Job Training – OJT means training by an employer in the private, private non-profit or public sector given to a WIOA registered customer who, after comprehensive assessment, is provided to a paid customer while engaged in productive work in a job that:

1. provides knowledge or skills essential to the full and adequate performance of the job;
2. provides reimbursement to the employer of up to 75% of the wage rate of the customer, for the extraordinary costs of providing the training and additional supervision related to the training; and
3. Is limited in duration as appropriate to the occupation for which the customer is being trained, taking into account the content of the training, the prior work experience of the customer, basic skills to attain competency, workplace ethics and life management skills and the service strategy of the customer, as appropriate.
4. OJT contracts must be limited to the period of time required for a participant to become

proficient in the occupation.

5. Employers may be reimbursed up to 50 percent of the wage rate of an OJT participant (not to exceed the Federal hourly wage rate maximum). This reimbursement rate may be increased for OJT contracts described in § 680.320(a)(1) up to 75 percent, when taking into account the following factors:
 - The characteristics of the participants taking into consideration whether they are “individuals with barriers to employment,” as defined in WIOA sec. 3(24);
 - 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; and
 - Other factors Local WDB may determine to be appropriate may include the number of employees participating, wage and benefit levels of the employees (both at present and after completion), and relation of the training to the competitiveness of the participant.
 - Local WDBs must document the factors used when deciding to increase the wage reimbursement levels above 50 percent up to 75 percent.

OJTs may be provided to eligible and appropriate Adults, Dislocated Workers and Youth aged 18 and above. OJTs may be provided under contract with an employer in the private sector, private non-profit sector or public sector and developed based upon assessed employer need. Individuals may be identified as a candidate for OJT contracts by NETLWDA staff or by employers, as appropriate. WIOA funds may be used to reimburse up to 50% of wages paid by employer for extraordinary costs of training. Employers are not required to document such extraordinary cost. Incremental training/performance benchmarks will be outlined in each contract. Reimbursement may be provided upon completion of identified performance benchmarks. Contracts may not be executed with an employer who has exhibited a “pattern of failing” to provide participants with continued long-term employment with wages, benefits and working conditions that are equal to those provided regular employees who have worked a similar length of time and are doing similar work. No funds shall be used to provide OJT opportunities for any business which has relocated to an area until 120 days from the date the company opened, with staff working at the Tennessee and LWDA location, if such relocation has resulted in the loss of employment at the company’s original location. An employer must provide documentation of a valid workers’ compensation policy. The employer must provide documentation that no employees are on layoff status in the training job classification and training must be full time and result in full time employment. Where possible, training should result in job advancement, increased earnings and additional skills and opportunity should exist for job advancement.

For an employed worker, the individual must be earning less than or equal to the self-sufficiency wage as determined by the NETLWDB at the time of training. The training outlined for an employed worker must indicate that the occupational skills to be acquired are an upgrade of existing skills and that a specified earnings increase will occur upon successful completion. OJT contracts will be primarily executed for unemployed individuals prior to enrollment. An OJT program may be executed for an employed worker when the employee is not earning a self-sufficient wage, other requirements are met as outlined in this policy statement, and the training relates to the introduction of new technologies; introduction to new production or service procedures; the upgrading to new jobs that require additional skills; workplace literacy, or other appropriate purpose identified by the NETLWDB.

Funding for OJT programs will 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/Individual Service Strategy. Contracts will be executed only for occupations classified at a Level 3 or above, as outlined in the Specific Vocational Preparation (SVP) rating system. OJT contracts will be time limited and may not exceed twelve months. OJT contracts may be written for jobs which pay at least \$9.50 per hour. Preference may be given to those positions that enable the LWDA to achieve mandated performance criteria. Payments made to an employer may not exceed \$12,000 total reimbursement per individual being trained. Payment will be made to the employer upon the participant's documented successful completion of training.

If an employer fails to provide a participant with long-term employment, wages, benefits and/or working conditions equal to those provided to regular employees, the employer has failed the OJT contract and will not be eligible for future contracts. Such employers may be provided another opportunity to participate in training if they make a request for reconsideration and if the circumstances attributed to the failure have changed. However, an employer who exhibits or has exhibited a pattern of failure will not be eligible to participate in future OJT contracts. To determine a pattern of failure, the following will be taken into consideration: the number of individuals who participated in training programs; number of participants who completed training and continued employment with the employer; length of time participants were employed after training; average length of employment for other "new hires" in similar occupations; average hourly wage of participants after training; and average hourly wage of other individuals (similarly employed) following a length of time equal to the training received by the participants.

NETLWDB staff will review the status of WIOA participants compared to regular employees to determine the employer's success or failure with WIOA/TAA training contracts, including previous WIOA OJT contracts. Should these findings indicate a pattern of failure, the employer will be asked to provide a narrative explanation that may justify a lower retention rate for participants as compared to regular employees. For example, participants may have quit voluntarily or may have been terminated for cause or unforeseeable changes in business conditions. Consideration will be given to employers who demonstrate less than 20% turnover. OJT will follow a procedure with integrity and policies which institutionalize ethical practices. The following outlines the process that will be utilized for review and action of these requests.

- Employers must provide job descriptions that include required skill levels, competencies to be attained, pre-requisites for entering training, etc.; number of individuals to be trained; length of training period; wages to be paid during training; retention assurances; amount of funds requested; and curriculum outline and time frame for recruitment, selection, hiring, training and follow-up.
- If an employer has had previous OJT contracts, data on completion rates, retention rates and wage levels of individuals who participated in an OJT contract must be provided. The Pre-award certification must be provided.
- OJT requests should be submitted in writing at least 10 working days prior to required training start date. Upon receipt of written request, administrative entity staff will review employer training information and request any additional data needed for the decision process. NETLWDB staff will ensure that OJT requests meet basic contract requirements. Requests not meeting requirements will not be forwarded for review.
- A full report will be made of approvals, denials, or requests for additional information at the next regularly scheduled meeting of the NETLWDB. (Note: Companies requesting

OJT assistance will not be required to provide proprietary information. NETLWDB members have executed a Conflict of Interest Statement in which they have agreed to publicly acknowledge any connections to employers requesting funds.

- OJT programs must be developed in accordance with the needs of an employer, or group of employers, and must specify skill levels, employment competencies, retention outcomes and wage rates which promote achievement of WIOA performance measures. Employers participating in OJT programs must commit to employ/continue to employ those who successfully complete the training program which may include skill upgrade, instruction for workers to promote use of new technologies or new production methods, and/or workplace literacy. Each OJT contract must include a Training Plan which identifies skills/competencies to be acquired, length of training time, measurable outcomes, and performance benchmarks.
- Employers participating in an OJT program using WIOA funds must agree to employ and/or retain those workers who successfully complete the training programs. A wage increase may be made available to individuals who successfully complete these training programs contingent upon labor market needs and financial health of the company in accordance with any collective bargaining agreements. Training providers must provide appropriate performance information to the NETLWDB. Funds provided under the WIOA may not be used to provide OJT programs for employers which have a pattern of not retaining WIOA sponsored employees or for non-secular organizations.

The OJT credential measurable skills gain definition is outlined in USDOL and TDLWD Performance Guidance and includes nationally recognized degrees or certificates or recognized education credentials. Upon completion of an OJT, the employer or instructor will sign a Certificate of Completion acknowledging the participant has obtained skills and competencies recognized by employers for a specific job or occupation, as well as general skills and competencies necessary for a broad range of occupations or job readiness. These skills and competencies are identified in advance in the Training Plan of the Training Contract.

Apprenticeship – Apprenticeship is an "Earn and Learn" training model, providing a unique combination of structured learning with on-the-job training from an assigned mentor. Related instruction, technical training or other certified training is provided by apprenticeship training centers, technical schools, community colleges, and/or institutions employing distance and computer-based learning approaches. The goal is to provide workers with advanced skillsets that meet the specific needs of employers. Upon completion of an Apprenticeship program, participants receive an industry issued, nationally recognized credential that certifies occupational proficiency and is portable.

Customized Training (CT) means training that:

1. Is designed to meet the special requirements of an employer (including a group of employers);
2. Is conducted with a commitment by the employer to employ an participant on successful completion of the training; and
3. For which the employer pays for not less than 50% of the costs of the training.

Customized Training (CT) may be provided to eligible and appropriate Adults, Dislocated Workers and Youth aged 18 and above. CT may be provided under contract with an employer in the private sector, private non-profit sector or public sector and developed based upon assessed employer need. Individuals may be identified as a candidate for CT contracts by NETLWDA staff or by employers, as appropriate. WIOA funds may be used to reimburse up to 50% of wages paid by employer for extraordinary costs of training. Employers are not required

to document such extraordinary cost. Incremental training/performance benchmarks will be outlined in each contract. Reimbursement may be provided upon completion of identified performance benchmarks. CT contracts may not be executed with an employer who has exhibited a "pattern of failing" to provide participants with continued long term employment with wages, benefits and working conditions that are equal to those provided regular employees who have worked a similar length of time and are doing similar work. No funds shall be used to provide CT opportunities for any business which has relocated to an area until 120 days from the date the company opened, with staff working at the Tennessee and LWDA location, if such relocation has resulted in the loss of employment at the company's original location. An employer must provide documentation of a valid workers' compensation policy. The employer must provide documentation that no employees are on layoff status in the training job classification and training must be full time and result in full time employment. Where possible, training should result in job advancement, increased earnings and additional skills and opportunity should exist for job advancement.

CT programs must be developed in accordance with the needs of an employer, or group of employers, and must specify skill levels, employment competencies, retention outcomes and wage rates which promote achievement of WIOA performance measures. Employers participating in CT programs must commit to employ/continue to employ those who successfully complete the training program which may include skill upgrade, instruction for workers to promote use of new technologies or new production methods, and/or workplace literacy. Each CT program must include a curriculum which identifies skills/competencies to be acquired, length of training time, measurable outcomes, and performance benchmarks.

Employers, or group of employers, participating in a customized training program must agree to provide payment for at least 50% of training program costs. CT programs must be procured through a competitive bid process conducted by the employer/group of employers. CT must result in a post-completion wage of at least \$9.50 per hour. Payments for CT programs may be made according to documented incremental benchmarks or may be paid upon conclusion and successful retention of participants in the training program.

Employers participating in a CT program using WIOA funds must agree to employ and/or retain those workers who successfully complete the training programs. A wage increase may be made available to individuals who successfully complete these training programs contingent upon labor market needs and financial health of the company in accordance with any collective bargaining agreements. Training providers must provide appropriate performance information to the NETLWDB. Funds provided under the WIOA may not be used to provide CT programs for employers which have a pattern of not retaining WIOA sponsored employees or for non-secular organizations.

For an employed worker, the individual must be earning less than or equal to the self-sufficiency wage as determined by the NETLWDB at the time of training. The training outlined for an employed worker must indicate that the occupational skills to be acquired are an upgrade of existing skills and that a specified earnings increase will occur upon successful completion. A CT program may be executed for an employed worker when the employee is not earning a self-sufficient wage, other requirements are met as outlined in this policy statement, and the training relates to the introduction of new technologies; introduction to new production or service procedures; the upgrading to new jobs that require additional skills; workplace literacy, or other appropriate purpose identified by the NETLWDB.

Funding for CT programs will 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/Individual Service Strategy. Contracts will be executed only for occupations classified at a Level 3 or above, as outlined in the Specific Vocational Preparation (SVP) rating system. Contracts will be time limited and may not exceed twelve months. Contracts may be written for jobs which pay at least \$9.50 per hour. Preference may be given to those positions that enable the NETLWDA to achieve mandated performance criteria. Payments made to an employer may not exceed \$12,000 total reimbursements per individual being trained. Payment will be made to the employer upon the participant's successful completion of training.

If an employer fails to provide a participant with long-term employment, wages, benefits and/or working conditions equal to those provided to regular employees, the employer has failed the contract and will not be eligible for future contracts. Such employers may be provided another opportunity to participate in training if they make a request for reconsideration and if the circumstances attributed to the failure have changed. However, an employer who exhibits or has exhibited a pattern of failure will not be eligible to participate in future contracts. To determine a pattern of failure, the following will be taken into consideration the number of individuals who participated in training programs; number of participants who completed training and continued employment with the employer; length of time participants were employed after training; average length of employment for other "new hires" in similar occupations; average hourly wage of participants after training; and average hourly wage of other individuals (similarly employed) following a length of time equal to the training received by the participants.

The comparison of WIOA participants with regular employees should provide enough information to determine the employer's success or failure with WIOA training contracts, including previous WIOA contracts. Should these findings indicate a pattern of failure, the employer will be asked to provide a narrative explanation that may justify a lower retention rate for participants as compared to regular employees. For example, participants may have quit voluntarily or may have been terminated for cause or unforeseeable changes in business conditions. Consideration will be given to employers who demonstrate less than 20% turnover.

The following outlines the process that will be utilized for review and action of these requests.

- Employers must provide, in writing or by electronic transmission to the NETLWDB Staff job descriptions that include:
 - required skill levels,
 - competencies to be attained,
 - pre- requisites for entering training, etc.;
 - number of individuals to be trained;
 - length of training period;
 - wages to be paid during training;
 - retention assurances;
 - amount of funds requested;
 - curriculum outline and
 - time frame for recruitment, selection, hiring, training and follow-up.
- If an employer has had previous contracts, data on completion rates, retention rates and wage levels of individuals who participated need to be provided. The Pre- award certification must be provided.
- Requests should be submitted in writing at least 10 working days prior to the required training start date. Upon receipt of written request, NETLWDB staff will review employer

training information and request any additional data needed for the decision process. Board staff will ensure that requests meet basic contract requirements. Requests not meeting requirements will not be forwarded for review.

- A full report will be made of approvals, denials, or requests for additional information at the next regularly scheduled meeting of the NETLWDB. (Note: Companies requesting assistance will not be required to provide proprietary information. NETLWDB members have executed a Conflict of Interest Statement in which they have agreed to publicly acknowledge any connections to employers requesting funds.)
- CT programs must be developed in accordance with the needs of an employer, or group of employers, and must specify skill levels, employment competencies, retention outcomes and wage rates which promote achievement of WIOA performance measures. Employers participating in CT programs must commit to employ/continue to employ those who successfully complete the training program which may include skill upgrade, instruction for workers to promote use of new technologies or new production methods, and/or workplace literacy. Each CT program must include a curriculum which identifies skills/competencies to be acquired, length of training time, measurable outcomes, and performance benchmarks.
- Employers, or group of employers, participating in a customized training program must agree to provide payment for at least 50% of training program costs. CT programs must be procured through a competitive bid process. CT must result in a post-completion wage of at least \$9.50 per hour. Payments for CT programs may be made according to documented incremental benchmarks or may be paid upon conclusion and successful retention of participants in the training program.
- Employers participating in a CT program using WIOA funds must agree to employ and/or retain those workers who successfully complete the training programs. A wage increase may be made available to individuals who successfully complete these training programs contingent upon labor market needs and financial health of the company in accordance with any collective bargaining agreements. Training providers must provide appropriate performance information to the NETLWDB. Funds provided under the WIOA may not be used to provide CT programs for employers which have a pattern of not retaining WIOA sponsored employees or for non-secular organizations.
- The AJC Business Services Team will collaborate with NETLWDB Staff according to established practice.

The CT credential measurable skills gain definition is outlined in USDOL and TDLWD Performance guidance and includes nationally recognized degrees or certificates or recognized education credentials. Upon completion of a CT, the employer or instructor will sign a Certificate of Completion acknowledging the participant has obtained skills and competencies recognized by employers for a specific job or occupation, as well as general skills and competencies necessary for a broad range of occupations or job readiness. These skills and competencies are identified in advance in the Training Schedule of the Training Contract.

Work Experience is a planned, structured learning activity that takes place in a workplace setting for a limited period of time. Work experience may be paid or unpaid. Work experience functions as a workplace-values activity for acquiring of behavioral competencies and specific occupation or job skills. The primary intent of work experience is to provide participants with opportunities for career exploration and skill development to gain work readiness skills in preparation for employment.

Work experiences should enable Youth, Adults and Dislocated Workers to gain exposure to the working world and its requirements. Work experience is designed to aid participants in a structured environment, learning good work habits with the focus on career exploration. Work experience must be based on identified needs of the adult and dislocated worker. Use of work experience situation must be based on an assessment and identified on the participant's Individual Employment Plan (IEP) or Individual Service Strategy (ISS). Work experience may be combined with classroom instruction relating to a particular position, occupation, industry or basic skills and abilities to successfully compete in the local labor market. Work experience is an intermediate employment step toward the long-term goal of moving along a career path.

Work experience may be conducted in the private-for profit, private non-profit and public sectors. Although a business, public agency or non-profit may also receive some benefit from work experience in the form of work being done or recruiting a potential new employee, the primary goal of work experience is to benefit the participant. Unpaid work experience is an activity exposing participants to the working environment. Attention must be given to ensure that work experience arrangements do not unfavorably impact current employees and do not impair existing contracts for services or collective bargaining agreements. Work experience, including internships, in the private for-profit sector must be structured so as not to appear to be subsidizing private for-profit operations. The work of the participant should not materially impact the profit margin of a private-for-profit company.

Although the WIOA law prescribes a minimum of 75% of WIOA Youth funds to be spent on OSY, the State of TN TDLWD has been granted a waiver by USDOL to expend up to 50% on ISY. WIOA prioritizes work experience with the requirement that Boards must spend a minimum of 20% of Youth funds on work experience. Work experiences for Youth and Young Adult participants provide opportunities for career exploration and skill development. Work experiences must include academic and occupational education. The types of work experiences include summer employment opportunities and other employment opportunities available throughout the year; Pre- apprenticeship programs; Internships and job shadowing; and On-the-job training (OJT) opportunities.

Transitional Jobs, as described in WIOA §134(d)(5), to individuals with barriers to employment who are chronically unemployed or have an inconsistent work history. The NETLWDB may use not more than 10% of the funds allocated to the local area to provide transitional jobs that:

- are time-limited work experiences that are subsidized and are in the public, private, or nonprofit sectors for individuals with barriers to employment who are chronically unemployed or have an inconsistent work history;
- are combined with comprehensive employment and supportive services; and
- are designed to assist the individuals to establish a work history, demonstrate success in the workplace, and develop the skills that lead to entry into and retention in unsubsidized employment.

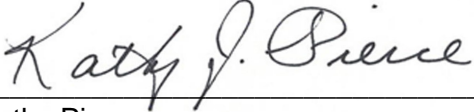
Pre-Apprenticeship – Pre-apprenticeship is a program or set of strategies designed to prepare individuals to enter and succeed in registered apprenticeship programs and has a documented partnership with at least one, if not more, registered apprenticeship programs(s).

Job Shadowing – A work experience option where youth learn about a job by walking through the work day as a shadow to a competent worker. The job shadowing work experience is a temporary, unpaid exposure to the workplace in an occupational area of interest to the youth.


CONTACT: Questions concerning the above may be addressed to Kathy Pierce, Executive Director of the NETLWDB at kpierce@ab-t.org.

This policy will remain in effect until amended, modified, or set aside by the Northeast Tennessee Local Workforce Development Board.

APPROVED:



Kathy Pierce
NETLWDB Executive Director



Jay Richardson
NETLWDB Chair