



NEMO WORKFORCE DEVELOPMENT BOARD



111 East Monroe • Paris, Missouri 65275 • Tel: 660.327.5125 • Fax: 660.327.5128 • TTY: Dial 7-1-1
www.nemowib.org

NEMO WDB ISSUANCE # 01-2017

ISSUED: SEPTEMBER 5, 2017

EFFECTIVE:

ON-THE-JOB TRAINING POLICY AND GUIDELINES

Purpose: To provide updated guidance pertaining to the On-The-Job Training policy in the Northeast Region.

Background: OJT is a training option under the Workforce Innovation Opportunity Act (WIOA). OJT participants use it to achieve training and placement goals. The Workforce Innovation Opportunity Act (WIOA) defines OJT as:

The term "on-the-job training" means training, by an employer, provided to a paid participant while engaged in productive work in a job that—

- (A) provides knowledge or skills essential to the full and adequate performance of the job;
- (B) 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 section 3174(c)(3)(H) of this title, for the extraordinary costs of providing the training and additional supervision related to the training; and
- (C) 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.

Substance: NEMO Workforce Development Board On-the-Job Training Practices and Procedures Manual provides operational guidance and forms for participation in the program.

Changes to the OJT Practices and Procedures include:

- Language referencing the Workforce Investment Act of 1998 (WIA) now refers to the corresponding or new sections of WIOA. References to OJT sections in the Code of Federal Regulations now cite the new proposed regulations implementing WIOA
- New language under "Participant Requirements" addresses short-term and long-term goals in the Employment Plans (EP)

- New language under “Reverse Referral” clarifies that any individual hired prior to an eligibility determination is not eligible to be a federally funded OJT participant.
- New language under “Determining Employer Eligibility”
 - Requires a pre-award review to verify that the employer is not relocating.
 - Prohibits entering an OJT program agreement with a State agency or any other unit of government that operates WIOA programs.
- “Program Agreement Minimum Requirements” clarify that the OJT Program Agreement must have beginning and ending dates, and conclude within one year.
- New language under “Training Plans Minimum Requirements” establishes:
 - Documentation of the Skills Gap Analysis must be sufficient to justify expenditure of federal OJT funds.
 - Variance in the Training Plan’s start and end dates requires a Supplemental Agreement.
 - The Training Plan, and the participant’s EP in the case management system, must document:
 - Short-term and long-term goals,
 - The skills gap between participant and occupation, and
 - The employer is not in layoff status.
- New language under “Monitoring” prescribes documentation of the attainment of skills and competencies.
- A new “Outcomes” section describes the case management system procedure for recording outcomes.

The Practices and Procedures Manual includes forms used to administer the OJT program. The DWD Forms can be found at <https://jobs.mo.gov/dwdprograms> and all forms can be found at <http://nemowib.org>

Action: As of the effective date of this Issuance, Northeast Missouri Workforce Development Region staffs and Sub-Recipient’s staff must fully comply with this guidance and use the On-the-Job Training Practices and Procedures Manual and associated forms to operate the OJT program. Distribute this Issuance to all appropriate staff.

References: 20 CFR 680.210.
 20 CFR 680.700(a) as proposed.
 20 CFR 683.260(b) as proposed.
 DWD Issuance 05-2015, “Statewide Individual Employment Plan Development Policy,” August 25, 2015.
 WIOA Section 134 (c)(3)(A); 29 U.S.C. 3174(c)(3)(A).

Recession: NEMO WIB Issuance 01-2012

Diane Simbro, Executive Director, NEMO Workforce Development Board

NEMO WDB

On-the-Job Training

Practices and Procedures Manual



TABLE OF CONTENTS

I.	Introduction	4
II.	Requirements	4
III.	Programming.....	8
	A. Priority of Service.....	8
	B. Labor Market Information	8
	C. Compliance	9
	D. Reimbursement Amounts	9
	E. Adults and Dislocated Workers.....	9
	F. Employed Worker (WIOA).....	10
	G. Incumbent Worker Training (Special Funds).....	10
	H. Youth On The Job Training (WIOA)	10
	I. Apprenticeable Occupations	13
IV.	Employer Considerations and Agreements	14
	A. Determining Employer Eligibility	14
	B. Reverse Referrals	15
	D. Employer Performance	17
	E. Ratio of OJT Positions to Overall Employees.....	17
	F. Affirmative Action\EEOC.....	18
	G. Turnover Rate	18
	H. Financial Stability	18
	I. Employer Dispute	18
	J. Agreement Modifications.....	18

L.	E-Verify:	18
M.	Nepotism:	18
V.	JOB SELECTION STANDARDS	19
VI.	Training Plan Minimum Requirements	20
	A. Training Length Consideration	21
	B. Minimum/Maximum Training Hours To Be Paid	22
	C. Fair Labor Standards	22
	D. Modification to Agreements	23
VII.	Invoicing/Payments to Employer	23
VIII.	Monitoring.....	24
IX.	Marketing	27
X.	Outcomes.....	28

DRAFT

Attachments

Employer Questionnaire	Attachment A
OJT Training Agreement (DWD-PO-213).....	Attachment B
OJT Training Plan Form (DWD-PO-214).....	Attachment C
OJT Trainee Orientation	Attachment D
OJT Employer Orientation.....	Attachment E
OJT Invoice (Time Sheet) (DWD-PO-220)	Attachment F
OJT Monitoring (DWD-PO-219)	Attachment G
Request for Union Concurrence	Attachment H
Employer Pre-Award Review Form	Attachment I
Youth Competencies Evaluation Form	Attachment J
OJT Training Supplemental Agreement (DWD-PO-215).....	Attachment K
OJT Training Eligibility Notification (DWD-PO-217).....	Attachment L

DRAFT

I. Introduction

This “On the Job Training” (OJT) Operating Guide has been developed to provide guidance and to serve as a reference for Missouri Job Center staff when entering into OJT agreements with employers and Workforce Innovation and Opportunity Act (WIOA) Title I participants in accordance with WIOA Rules and Regulations (Sec. 680.700-680.730 and Sec. 683.260) and DWD Issuance 17-2015.

Throughout this OJT Operating Guide, specifics to the Workforce Innovation and Opportunity Act (WIOA) (as they relate to entering into an OJT agreement) are discussed.

Enrollment in OJT is the culmination of a participant’s assessed needs to become self-sufficient. Missouri Job Center (MJC) staff must assess and determine if the participant lacks adequate work experience and/or occupational training and is in need of training services to meet an employer’s minimum hiring requirements.

The Workforce Innovation and Opportunity Act (WIOA) defines OJT as:

...training by an employer provided to a paid participant while engaged in productive work in a job that:

- a) *Provides knowledge or skills essential to the full and adequate performance of the job;*
- b) *Provides reimbursement to the employer of up to 50% of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and*
- c) *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 an employment plan of the participant, as appropriate.*

II. Requirements

OJT in the NEMO Workforce Development Board region will be conducted using the following general principles:

OJT is not just a placement activity; it is a training program. The program neither “purchases” a job slot nor “subsidizes” wages. Instead, it provides reimbursement to the employer for the extra time that a WIOA participant requires for training on the job. OJT reimbursement is “compensation” for the extraordinary costs associated with the lower productivity of such participants.”

A. Assessment

1. A thorough assessment will be provided in which the skill requirements of the occupation, the academic and occupational skill level of the participant, and the participant's prior work experience will assist in executing the training plan and determining the length of the training. The purpose of an assessment is to help the individual and MJC staff make decisions about appropriate employment goals and develop effective service strategies for reaching those goals.

An assessment should include identification of the participant's transferable skills, based on the theory that job skills are transferable to other jobs requiring similar worker traits and aptitudes. A key factor to the success of the participant is an evaluation of the participant's financial needs to assist them in making career decisions that will lead to self-sufficiency.

2. Post the frontline workforce staff assessment of the participant for an OJT assignment in Service notes in the case management system. This will include the information formerly gathered through the *Appropriateness Tab* in the Toolbox system. Staff should document contacts with the participant and the employer, report changes of a participant's circumstances, and document the provision of Supportive Services

B. Employment Plan (EP) or Youth Individual Service Strategy (ISS)

1. The participant and the frontline workforce staff will jointly develop the Employment Plan (EP) or Youth Individual Service Strategy (ISS). It should include the specific requirements addressing the short-term and long-term goals as well as the required documentation addressing the identified skills gap (DWD Issuance 05-2015) Statewide Individual Employment Plan Development Policy.

The EP also must include:

- Short term and Long term goals;
- The skills gap between participant ad occupation;
- The employer is not in Layoff Status;
- The occupational goal;
- The identified need for training;
- Any identified barriers to successful completion of an OJT opportunity;
- The participant's name and case management system Applicant ID, or last four digits of Social Security Number; and
- Any post-placement follow-up service needs

2. Once the preliminary EP information has been gathered and the assessment process is completed, the following considerations should be addressed:
 - (a) Will the participant need to learn new skills for the OJT position, or does the participant currently possess those skills?
 - (b) Is OJT the best strategy for the participant to learn these new skills, or is occupational skills training more suitable for the participant?
 - (c) Can the participant obtain the position without subsidizing the employer? If so, a direct job placement is appropriate and OJT is **not allowable**.
 - (d) Is the participant capable of completing the training?

3. If a need for OJT cannot be documented, a direct placement or referral to other services should be considered. If a need for OJT has been determined and recorded on the EP, a referral may be made to appropriate employers. EP documentation of a participant's appropriateness for OJT is required PRIOR to employer selection.

All of the above information should be used to develop a comprehensive package of appropriate services that will address barriers and enable the participant to either enter employment or an educational component that meets their educational or occupational goals and will assist the participant with reaching self-sufficiency.

C. Documentation

1. The information on the EP should have back up documentation, when appropriate. This may include copies of the various testing and assessment materials given to the participant. Service notes will be used to document the EP update process, and should be clearly identified as such. Service notes will be entered into the State Case Management System, as appropriate.
2. Missouri Job Center staff is required to keep the EP updated according to NEMO Workforce Development Board standards.
3. Missouri Job Center staff will review each participant's progress at least every 30 days in meeting program and service strategy objectives, including the participant's acquisition of basic/occupational skills, and the adequacy of supportive services provided as related to OJT.

D. Administrative Responsibility

1. Functional Leaders must ensure adequate systems and internal procedures are in place for OJT programs in order to ensure full compliance with all aspects of the

program. The OJT Program must be managed efficiently with accountability. At a minimum, this means that:

- (a) Clear procedures must be in place for the entire OJT process, from participant assessment to worksite monitoring.
 - (b) Written agreements between employers, participants, and staff must clearly assign accountability and describe a mechanism for measuring performance.
 - (c) Reporting, monitoring, and record-keeping procedures must document that training plans and agreements are being correctly carried out.
2. OJT occurs while the participant is engaged in productive work, which provides knowledge and skills essential to perform the job. Due to the new and emerging industries and the complexity of the skills, some jobs may require a combination of classroom training and on the job training.
 3. OJT can reimburse wages for an individual to attend up to 20% of the total OJT agreement hours (maximum 160 hours) of company sponsored classroom training. The training is conditional based upon the following provisions:
 - a. the company is incurring the costs of the training
 - b. the training is not funded using other funding sources such as State or Federal training program funds
 - c. the training is directly related to the job and
 - d. the training is required of all individuals hired for this position

Documentation of the need for actual classroom training will be included on the training plan, the EP, and Service Notes. Documentation will be retained in the OJT participants file.

4. Payments to employers for OJT shall comply with program guidelines. Regions must ensure that payments to employers are in compensation for the extraordinary costs associated with training participants and in compensation for the costs associated with the lower productivity of such employees. Employers, however, are not required to document these extraordinary costs.
5. Prior to WIOA OJT approvals, Functional Leaders should notify the Workforce Development Board of the companies use or intention to use State and Federal training funds such as the States Customized Training funds. Notification to WDB should include:
 - name of business
 - number of positions expected to be placed at this business with OJT agreements

- job title(s) and
- estimated begin and end dates

III. Programming

A. Priority of Service

In addition to the Assessment and EP minimum required elements, the following policies and/or requirements established by the NEMO Workforce Development Board shall be considered:

1. **Veterans Priority of Service**

Priority of service shall be given to those individuals with qualifying veterans' status. Refer to *DWD Issuance 10-2016*

2. **WIOA Adult Priority of Service**

Due to limited funding a Priority of Services has been implemented in the Northeast Region in addition to qualifying veteran status. Priority of services shall be given to WIOA Adults as follows:

- **First Priority** will be given to adults who are recipients of public assistance and other "low-income" individuals. Low income is defined in *DWD Issuance 11-2016, Change 1*.
- **Second Priority** will be given to unemployed and/or employed individuals who are not recipients of public assistance or low-income individuals but are within 150% of the current poverty level as identified by the Department of Health and Human Services (HHS) or the Lower Living Standard Income Level Guidelines (LLSIL) whichever is higher, and possess multiple barriers to employment. Those possessing the higher number of barriers will be given preference for intensive and training services over those with fewer barriers. A request for waiver to serve individuals in the second priority level must be approved by the NEMO WDB prior to enrollment into intensive or training services.

B. Labor Market Information

Labor market information should be a guiding principal when determining a participant's career goals and making decisions about OJT training sites. The goal of any training program is for the participant to obtain the knowledge, skills and abilities that will allow them to obtain employment, earning a self-sufficient wage. Staff should provide the participant with the tools, knowledge and opportunities to obtain employment earning a self-sufficient wage. An emphasis should be placed on jobs in high growth or emerging occupations with high wage potential. The Northeast Region has identified advanced manufacturing, with an emphasis on welding, health care, transportation and logistics,

and agriculture related occupations as targeted industries. Occupations in demand can be documented through several labor market resources available such as: ([MERIC](#)), ([O'NET OnLine](#)), ([NAICS](#)), or employer identified job opportunities.

C. Compliance

1. All participants will be served by the Missouri Job Center staff in compliance with *NEMO Workforce Development Board Issuances, DWD Issuances, and WIOA Rules and Regulations*.
2. An OJT agreement 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.
3. OJT agreements with a participant's former employer are discouraged and **only allowable with prior approval** of the Business Services Team Lead, the DWD OJT Program Coordinator, and the NEMO WDB Executive Director. The Training Plan and participant's case management system EP must additionally document the OJT participant is training in an upgraded position.

D. Reimbursement Amounts

WIOA provides for reimbursement to the employer of up to 50% of the wage rate of the participants in On-the-Job training. Individuals in OJT shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly employed in similar occupations by the same employer; and, who have similar training, experience, and skills. Such rates shall be in accordance with applicable law, but in no event, less than the higher of the rate specified or the applicable state and local minimum wage.

E. Adults and Dislocated Workers

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

1. Have met the eligibility requirements for Basic or Individualized Career Services and have received at least one intensive service and have been determined to be unable to obtain or retain employment through such services and
2. After an interview, evaluation or assessment and case management have been determined to be in need of training services and found to have the skills and qualifications to successfully complete the selected training program, and
3. Are in need of training to obtain employment that will lead to self-sufficiency (or comparable or higher wages than previous employment, and
4. Have selected a program of services directly linked to high growth or emerging occupations in the local area as identified by the NEMO WDB Local Plan, and

5. Are unable to obtain assistance from other sources to pay the costs of such training, or who require WIOA assistance to supplement other sources of assistance.

The employer must have the intent to hire the individual upon the completion of the agreement.

The Employment Plan must state the individual's career goal and the goal must be in an occupation in which the OJT agreement is being developed. The Occupational code and wage for the OJT occupation should be entered in the State Case Management System.

F. Employed Worker (WIOA)

1. OJT agreements may be written for employed workers when:
 - (a) The employee is not earning a self-sufficient wage as determined by local NEMO Workforce Development Board policy (NEMO WDB Issuance 02-2017); and
 - (b) The OJT relates to the introduction of new technologies, introduction to new production or service procedures, and
 - (c) Upgrading to a new job that requires additional skills, workplace literacy, or other appropriate purposes, and
 - (d) OJT is provided under an agreement with an employer in the public, private non-profit, or private sector, and
 - (e) Through the OJT agreement, training is provided for the WIOA participant in exchange for the reimbursement of the wage rate to compensate for the employer's extraordinary costs, and

G. Incumbent Worker Training (Special Funds)

The Northeast Region does not have an Incumbent Worker program.

H. Youth On The Job Training (WIOA)

1. OJT positions in most cases are not an appropriate work experience activity for youth participants under age 18. Local Title I Youth Program Operators may choose to use this service strategy for eligible youth, when it is appropriate, based on the needs identified by the objective assessment of an individual youth participant WIOA sec. 129(c)(1)(A). When considering OJT for youth under the age of 18 the following conditions must be met:
 - (a) Youth is an "Out-of-School" youth by definition
 - Definition - *Out-of-School Youth is defined as: – (A) An eligible youth who is a school dropout, or (B) who has received a secondary school diploma or its equivalent but is basic skills deficient, unemployed or underemployed (WIOA section 681.210). For reporting purposes this term includes all youth except:*

(i) those who are attending any school and have not received a secondary school diploma or its recognized equivalent, or (ii) those who are attending post-secondary school and are not basic skills deficient.

- (b) Individual Service Strategy (ISS) must state youth's career goal and the goal must be in an occupation in which the OJT agreement is being developed
 - (c) the occupation must be in the best interest of the individual
 - (d) the OJT will provide them with a self-sufficient wage
 - (e) the employer must have the intent to hire the youth full time
2. All Out-of-School youth must be assessed for basic skills. All out-of-school youth determined to be deficient in basic skills will be encouraged to enroll and participate in activities to upgrade or increase their basic skills levels regardless if they possess a high school diploma or its equivalent.
 3. In cases where the OJT participant is a high school drop-out, the participant shall be encouraged to enroll in and attend classes leading to HiSet attainment. This may be waived by the Title I WIOA Youth program operator for a limited interim time in cases where an appropriate course of study is not immediately available (i.e. summer months, school vacation periods, etc.)
 4. Those youth enrolled into an educational component at the date of participation or at any point during participation will be subject to the "Attainment of a Degree" or "Certificate" as it relates to Common Performance measures. Education refers to participation in secondary school, post-secondary school, adult education programs, or any other organized program of study leading to a degree or certificate.
 5. No funds shall be used to provide an activity for eligible youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth. (WIOA sec 129 (c) (6)(C))
 6. For youth, OJT will be directed toward achieving three areas of competency. These areas are Basic Education, General Workplace Competencies, and Job Specific Skills.
 7. For youth, in addition to the Job Skills Evaluation, all participants shall have general workplace competencies evaluated **once per month** during the training program. General workplace competencies shall be documented on the *Youth General Workplace Competencies Evaluation (Attachment J)*.
 - (a) The Contracting Agency will ensure that all participants develop and demonstrate general workplace competencies to include at a minimum:

- Participant's progress relative to any employment barriers identified earlier on the Individual Service Strategy.
 - Participant's progress towards demonstrating basic work competencies to include: (to be evaluated by employer on Youth General Workplace Competencies Evaluation)
 - (i) acceptable work habits i.e., attendance, punctuality, use of time, use of privileges and use of property;
 - (ii) acceptable work attitude to include cooperation, relationship to other employees, dependability, initiative and attitude towards directions and instruction;
 - (iii) acceptable work quality and quantity to include accuracy, knowledge of work, learning speed, application of instruction to work, and amount of work produced in terms of the particular job;
 - Counseling Services to include:
 - (i) ensuring that participants and employers are adjusting to the training activity;
 - (ii) developing an atmosphere for participant/employer communication to provide a network for the resolution of problems;
 - (iii) assistance toward identifying and resolving any potential problems
 - Participants will be informed of their deficiencies in general workplace competencies after each review and counseling activity. Work competency results, observations and/or recommendations shall be documented and become a part of the participant's file.
8. When properly justified on the Individual Service Strategy (ISS) as a participant in need, the OJT may also be used in combination with Classroom Occupational Training and/or Tutoring, Study Skills Training and Instruction activities, when appropriate.
- (a) When a combination enrollment is warranted, OJT can provide tuition costs for classroom occupational training focused around job specific skills relate to the OJT. Allowable classroom occupational training would include courses to expand job specific skills, certification courses for job specific skills, and short-term courses.
 - (b) Supportive services may also be provided for up to one month to cover initial travel and childcare expenses until receipt of sufficient pay whereby there is a reasonable expectation that the participant could bear these costs him/herself. Extension for supportive services over the one month limitation can be requested through waiver by the NEMO WDB.

I. Apprenticeship Occupations

OJT Contracts may be written with registered apprenticeship programs or participating employers in registered apprenticeship programs for the OJT portion of the registered apprenticeship program consistent with 20 CFR §680.700. Depending on the length of the registered apprenticeship and the local funding available, these funds may cover some of all of the registered apprenticeship training 20 CFR § 680.740.

Registered apprenticeships are formalized career training programs that offer a combination of structured On-the-Job training and related technical instruction to employees to train them in occupations that demand a high level of skill. Apprenticeship training standards are established by DOL and the employer.

Apprenticeships can last from one to six years (occupation dependent). During this time, apprentice employees work and learn under the direction of experienced journey workers. Over time, apprentice employees are provided the diversity and complexity of training that leads to becoming highly skilled in their chosen occupations. As they gain skill, they are compensated through an increase in wages.

When training is proposed for apprenticeship occupations, the provider should, with the knowledge and approval of the employer, consult with the appropriate DWD apprenticeship representative regarding the coupling of training with apprenticeship programs. The purpose is to provide individuals who receive OJT training with the opportunity to participate in a structured training program that lasts beyond the limits of the WIOA OJT training, and provides for an incremental increase in wages.

Additional information regarding the apprenticeship programs can be found at www.doleta.gov.

IV. Employer Considerations and Agreements

Not every employer willing to participate in the OJT program is necessarily appropriate for certain job positions, or in some cases for any job position. Missouri Job Center staff must gather information and gain a complete picture of the employer's situation and intentions prior to entering into any OJT agreement situation. The Business Representative (Regional and Local) should be knowledgeable of the employers needs and provide assistance in identifying employers appropriate for OJT.

An agreement may not be entered into 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 the typical employees who have worked a similar length of time and are doing the same type for work

A. Determining Employer Eligibility

OJT Training Agreements are not entitlements and should be used to develop long-term employment opportunities by identifying priority employers. OJT Employers may be from the public, private non-profit, or private sector. Every OJT employer must affirm enrollment and participation in the E-Verify federal work authorization program. A pre-agreement evaluation of the employer's performance must be completed using the criteria listed below:

- 1) The employer must not be relocating from another labor-market area. [20 CFR 683.260(a), as proposed]. If so, the positions must be in place 120 days prior to consideration for an OJT position. A pre-award review is required to verify that a business which is new or expanding is not relocating. Pre-award reviews shall be documented and include names under which the company does business; the name, title, and address of the company official certifying the information; whether assistance is sought in connection with past or impending job losses at other facilities, including a review of WARN notices; and consultation with labor organizations, if applicable. [20 CFR 683.260(b), as proposed]
 - a) Under WIOA, a **pre-award review is required** to verify that the employer is not relocating. The NEMO Workforce Development Board "*Employer Questionnaire*" must be completed to ensure required information has been gathered. (*Attachment A*)
 - b) The employer's responses on the "*Employer's Questionnaire*" will help Missouri Job Center staff determine if an OJT is appropriate for the job position and the employer.

- 2) The employer must have: 1) recalled or attempted to recall all employees who entered active layoff or participated in the Shared Work Program within the past 365 days in the local labor market area; and 2) not given notice of layoff to any employees from the same position or any substantially equivalent position.
- 3) An agreement **may not** be entered into 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 the typical employees who have worked a similar length of time and are doing the same type for work
- 4) The training must not displace current employees.
- 5) The company must have regulations that address safety and health issues.
- 6) Appropriate supervision and training must be provided for all participants.
- 7) Training must not duplicate a service already provided by other sources such as through the Department of Economic Development or Missouri Works Training.
- 8) WIOA stipulates and the regulations reinforce that the local OJT coordinator should discard employers that consistently fail to retain OJT participants. The local OJT coordinator must not create an OJT agreement with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages, benefits, and working conditions. A participant's situation must be equivalent to that of regular employees who have worked a similar length of time and are doing the same type of work
- 9) The position must not be seasonal employment.
- 10) The wages and benefits should be appropriate based on O'NET State and National Wage Tables and should not be identified as Job Zone level 1, SVP 3 or below
- 11) The employer must pay its employer wage taxes.
- 12) The position must be a full-time position, defined as 32 or more hours per week.
- 13) Training must not impair any existing contracts for services or collective bargaining agreements. A "Request of Union Concurrence" should be completed and sent to the Union Representative prior to placing the individual with the OJT employer. (*Attachment H - Request for Union Concurrence*)
- 14) Training Agreements cannot be for temporary or intermittent employment, or for employment in an occupation for a fee.
- 15) It is prohibited to enter an OJT agreement with a State Agency
- 16) It is prohibited for any local governmental WIOA operator to enter an OJT agreement with any other unit of that same government.

B. Reverse Referrals

Many times a company identifies a potential OJT participant first. In these cases, the individual lacks skills the employer requires and is in need of OJT. The company must first refer the individual to the Job Center for eligibility

determination **prior to beginning the hiring process**. Any individual hired prior to the eligibility determination is not eligible for the federally funded OJT program.

It is the NEMO Workforce Development Board's policy to accept reverse referrals provided the referrals meet the following criteria:

1. Participant's eligibility must be determined prior to employment; no pre-hires or period of employment prior to development of an OJT agreement and participant training plan are acceptable; and
2. When an employer refers a potential participant to the Missouri Job Center prior to hiring, the Missouri Job Center staff must utilize normal eligibility assessment and enrollment procedures.

C. OJT Program Agreement

OJT is provided under an agreement with an employer in the public, private non-profit, or private sector.

- 1) Complete OJT Training Program Agreement (DWD-PO-213), which includes the Agreement, Legal Certifications, Non-Discrimination & Equal Opportunity Assurances, Affidavit of Work Authorization, and Contract General Assurances. Authorized Signature for Training Operation shall be the DWD Business Representative or DWD Workforce Coordinator that negotiated the agreement. The agreement will also require the signature of the WDB Executive Director.
- 2) Complete an Employer Orientation with the employer and/or employer representative, using the form provided (Attachment E). Discuss the training provisions, general assurances, program monitoring, and invoicing procedures.
- 3) Review WIOA nondiscrimination requirements and complete/sign the Equal Opportunity Notice (DWD-120) and the Program Complaint and Grievance Forms (DWD-121).
- 4) The Program Agreement must have beginning and ending dates, and conclude within one (1) year. Variance in the dates will require completion of the OJT Supplemental Agreement (DWD-PO-215).
- 5) Review Local NEMO WDB policy regarding handling of employer disputes, nepotism, and agreement modification requests.
- 6) Review the policy on prohibition of employment in construction, operation, or maintenance of a facility primarily devoted to sectarian instruction or religious worship.

The Program Agreement assurances must include:

- E-Verify confirmation;
- References to labor standards;

- Grievance procedures;
- Compliance with all applicable business licensing and taxation;
- The employer's commitment to retain the participant(s) upon training completion.

D. Employer Performance

Missouri Job Center Staff will follow the following to document Employer Performance

1. Documentation of Employer Performance

Prior to writing subsequent OJT agreements with an employer, the Missouri Job Center staff must obtain written documentation that the employer has not exhibited a pattern of failing to provide On-the-Job training participants with continued long-term employment, after completion of subsidized employment. The *Employer Pre-Award Review Form* and the *"Employer Questionnaire"* may be used to document the employer's status with failing to provide On-the-Job training participants with continued long-term employment.

1. Employer Performance Criteria

The NEMO Workforce Development Board and/or their subcontractors may not form agreements with OJT employers who, in two or more previous agreements, which were active within the preceding 18 months, failed to:

- a) Hire at least 75% of the participants trained (excluding those who voluntarily resigned, were terminated for cause in accordance with the employer's personnel practices or released due to unforeseen business reversals); and
- b) Provide continued long-term employment for those who were retained (6 months or longer upon completion of agreement) with wages, benefits (including scheduled pay increases and health insurance), and
- c) Provide working conditions to participants 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.

2. Violation of Retention

Employers who violate the retention elements as listed above are considered to be in violation of WIOA and may not be considered for an agreement for a period of 12 months from the ending date of their last agreement. Northeast Region may reconsider the employer for participation in the program if they can demonstrate they have taken appropriate corrective action to comply with WIOA.

E. Ratio of OJT Positions to Overall Employees

Businesses should have their own program for employee development, and should not be overly reliant on OJT or other federal or state funded programs. In the

Northeast Region, the ratio of OJT positions to overall employees shall not exceed one out of four (1 in 4) unless a "Request for Waiver" has been approved by the NEMO Workforce Development Board prior to enrollment.

F. Affirmative Action\EEOC

The employer must have a positive record concerning affirmative action and equal employment opportunity.

G. Turnover Rate

Agreements will not be entered into with employers for positions that have a consistent high turnover rate, unless documentation of extraordinary circumstances surrounding the turnover rate is obtained.

H. Financial Stability

Agreements will not be entered into with any business that appears to be financially unstable. The "Employer Questionnaire" should be completed by the employer and Missouri Job Center staff should assess the businesses' financial stability.

I. Employer Dispute

To resolve any dispute regarding agreement issues the OJT Employer will notify the NEMO Workforce Development Board in writing. The NEMO Workforce Development Board will respond within ten (10) working days of receipt of the written notification. If contested, this disposition may be appealed under the issuance *DWD 09-2012 - Workforce Investment Act Complaint Resolution Policies*.

J. Agreement Modifications

This OJT agreement may be modified with concurrence from both parties. Modification to the agreement will generally be to increase training pay rate or increase/decrease training length.

K. Sectarian Activities: WIOA Title I financial assistance may not be spent on the employment or training of participants in sectarian activities, involving the construction, operation, or maintenance of a facility primarily devoted to sectarian instruction or religious worship.

L. E-Verify: Functional Leaders must affirm the employer's enrollment and participation in the E-Verify federal work authorization program prior to forming an OJT agreement or pre-agreement.

M. Nepotism: OJT cannot be used to hire a relative (by blood, marriage or adoption) or a relative of the employer's administrative staff.

N. Testing and sanctioning for use of controlled substances: NEMO WDB will follow The Complaint and Grievance Procedures Policy (rev. 7/15/17) [Attachment 10 –

NEMO WDB Personnel Policy] to ensure participants who are sanctioned due to use of controlled substances (WIOA sec. 181(f)(1) & WIOA sec. 181(f)(2) will have an avenue to file a Program Complaint and/or file an appeal.

V. JOB SELECTION STANDARDS

Following are guidelines and/or requirements Missouri Job Center staff are to follow in selecting a job or occupation suitable for OJT:

1. The job must require specific occupational training, which can be learned while engaged in productive work.
2. Occupations with Job Zone 1 (SVP level below 3 or below) would not be appropriate in most situations; however, Job Zone 2 (SVP level 4 or more) shall be appropriate for OJT funding.
3. OJT participants' compensation must be at the same rates, including periodic increases, as that of trainees or employees in similar occupations for the same employer who possess similar training, experience, and skills. Such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in sec. 6(a)(1) of the Fair Labor Standards Act of 1938 [29 U.S.C. 206(a)(1)] or the applicable State or local minimum wage law. [WIOA sec. 181(a)(1)(A)]. Rates shall not be less than the higher of the federal, State, or local minimum wage.
4. The job, and its career pathway, must be a logical step in achieving the occupational objectives outlined in the participant's ISS/EP.
5. Staff should ensure that Equal Opportunity is provided in all services without regard to race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIOA Title I financially-assisted program or activity. The regulations that implement these provisions are published at §1630.2 and 29 CFR Part 37 & 38.
6. OJT positions are encouraged in new/emerging and higher skill occupations appropriate to the participant's needs that lead to self-sufficiency by local definition.
7. OJT positions must be developed in high growth/high demand occupations in need of workers within the local economy.
8. The OJT position may not be for the same or comparable job as a participant has previously held at their current or previous employers.
9. The OJT position must include a formal, written program of structured job training that will provide participants with an orderly combination of instruction in work maturity skills, general employment competencies and occupationally specific skills.
10. The OJT position must have career advancement potential.

11. Should staff determine an OJT is inappropriate other options should be considered and appropriate referrals made.
12. OJT Agreements may be written for employed workers when the employee is not earning a self-sufficient wage as determined by the NEMO Workforce Development Board *Self Sufficiency Definition* (NEMO WDB Issuance 02-2017). Positions must relate to the following criteria:
 - Introduction of new technologies or
 - Introduction to new production or service procedures, and
 - Upgrading to new jobs that require additional skills, and
 - Provide for a wage that allows self sufficiency

VI. Training Plan Minimum Requirements

After determination of the position in which the participant will be trained, an On-The-Job Training Outline and Job Description (DWD-PO-214) must be developed. (*Attachment C*) That training is to combine instruction in general employment competencies with occupationally specific skills that will enable the participant to work toward self-sufficiency. The OJT Plan must identify the occupation, the skills, and the competencies for which the participant is training, as well as the length of time the training will be provided. The Plan also must establish the period of time required for a participant to become proficient in the occupation for which the training is being provided. To determine the length of the training outline, consider the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's EP [20 CFR 680.700(c), as proposed]. Thoroughly document the Skills Gap Analysis at a level sufficient to justify expenditure of federal OJT funds.

The Training Plan and the Participant's EP in the case management system, **must clearly document:**

- Short-term and Long-term goals,
- The skills gap between participant and occupation, and
- The employer is no in layoff status

That training is to combine instruction in general employment competencies with occupationally specific skills that will enable the participant to work toward self-sufficiency. Use O'NET and/or the company's job description as a basis to list skills or tasks. Keep each skill description concise and comprehensive, and make sure the individual tasks are measurable and observable.

In determining the appropriate length of the Training Agreement, consider the skill requirements of the occupation, the academic and occupational skill level of the

participant, prior work experience, and the participant's EP. Base the participant's length of training on the skills gap between the position and the OJT participant. Training must not exceed 1,040 hours. Training Plan reimbursement rates must not exceed 50 percent of the wage rate of the participant.

A. Training Length Consideration

1. O'NET

Specific Vocational Preparation (SVP) is to be used as a measure for the required level of specific occupational training and experience time. The different levels of SVP have been incorporated with Occupational Information Network (O*NET) Career Exploration tools. The O*NET utilizes the Standard Occupational Codes (SOC) classification system as the occupational coding system. O*NET codes have been divided into groups called Occupational Units (OU). The Occupational Units (OU) have been further grouped into Job Zones, which define the amount of education and occupational preparation necessary to exhibit an average performance for a job. These Job Zones are coordinated with the OU groupings and then attached to an SVP level. O*NET can be accessed through the internet at <http://online.onetcenter.org>.

2. Job Zone

The SVP/Job Zone system will be used in the Northeast Region as identified in the O*NET system to establish the maximum length of training for a given occupation:

- a) Obtain a written job description from the employer. A job description is utilized to identify the tasks to be performed, tools to be used and skills necessary to perform the job. If none exists, Job Center staff will write one based on the employer's verbal job description. O'Net job descriptions can be used to assist in drafting job descriptions but job descriptions should be individualized to each job.
* Note: Assisting the employer with creating a job description is a value added service to the employer.
- b) Locate the title of the occupation in the O*NET system and identify the occupations 8 digit occupational code that most closely matches the employer's job description.
- c) Using the O*NET occupational title identify the Job Zone for the occupational title.
- d) Using the Chart below determine the maximum allowable training length for the occupation.

Zone/SVP Training Time Conversion Chart

<u>Job Zone Level</u>	<u>SVP Range</u>	<u>Maximum Training Allowed</u>	<u>Preparation</u>
Job Zone 1	SVP Range Below 4.0	Allowed with Waiver only	Need little or no preparation
Job Zone 2	SVP Range 4.0 to <6.0	800 Hours	Need some preparation
Job Zone 3	SVP Range 6.0 to <7.0	920 Hours	Need medium preparation
Job Zone 4	SVP Range 7.0 to <8.0	1040 Hours	Need considerable preparation
Job Zone 5	SVP Range 8.0 and above	1040 Hours	Need extensive preparation

3. Minimum Job Zone

- a) Occupations with Job Zone of 1 (SVP 3 or below) would not be appropriate in most situations but may be considered under special circumstances with prior approval from the NEMO Workforce Investment Board.
- b) Job Zone 2 (SVP levels of 4 or more) shall be appropriate for OJT funding.

B. Minimum/Maximum Training Hours To Be Paid

1. The minimum length of training in the Northeast Region for OJT shall not be less than 160 hours.
2. Regardless of the amount of training time established based on the SVP/O*NET Job Zones and subsequent reductions in training length, an employer may only be reimbursed for up to a maximum of one (1) year of training or 1040 hours, whichever is arrived at first.

C. Fair Labor Standards

Participants in an OJT program shall be compensated at the same rates (including periodic increases) as trainees or employees who are similarly employed in like occupations by the same employer and who have similar training, experience and skills. Such rates will be in accordance with applicable law, but in no event less than the higher of the rate specified in sec. 6(a)(1) of the Fair Labor Standards Act of 1938 [29 U.S.C. 206(a)(1)] or the applicable State or local minimum wage law. [WIOA sec. 181(a)(1)(A)]. Rates shall not be less than the higher of the federal, State, or local minimum wage.

D. Modification to Agreements

- 1) Completion of DWD-PO-215 OJT Training Supplemental Agreement will be required to increase or decrease an agreement at any time during the duration of the agreement or to extend the agreement ending date.
- 2) All appropriate documentation pertaining to the justification for the agreement modification must be present in the OJT participant's file.
- 3) As in the original agreement, the authorized signature for agency must be DWD Business Representative or DWD Workforce Coordinator and not the agency staff person directly working with the employer or participant.

VII. Invoicing/Payments to Employer

Payments to employers for OJT must comply with WIOA program guidelines and NEMO WDB policies.

NEMO WDB & Functional Leadership must ensure that payments to employers compensate for the extraordinary costs associated with training and the costs associated with the lower productivity of participants. Employers are not required to document these extraordinary costs.

Functional Leaders and Employers must establish record keeping and record retention systems that adequately support OJT invoices. All records associated with payment to employers must be available to DWD and NEMO WDB monitors.

The invoice system that determines reimbursement must clearly document the number of hours worked each day by the participant and the rate of pay for the time period. (DWD-PO-220 - *Attachment F*) Both the participant and the employer or supervisor must sign the invoice, unless the participant signs documentation (timesheet/timecard) that the employers attaches and reconciles it to the invoice. In the event the participant is unable to sign a timesheet, outline attempts to secure a signature in the case management system Service Notes. If a company uses an electronic time management system to capture attendance, and attests to its use in the Program Agreement, the participant's signature is not necessary.

Base payments to employers on scheduled raises and regular pay increases, if they occur. Any such raises must be documented on the original Supplemental Agreement (DWD-PO-215) and must be in place prior to the reimbursement of the wage increase. Payments to employers cannot be made on higher wages due to overtime, shift differential, premium pay, other non-regular wages paid by the employer, or periods of time in which no training occurs (illness, holidays, plant downtime, or other events).

The number of hours to be reimbursed shall not exceed 40 hours per week. Employers cannot pay OJT participants in cash.

Each OJT employer shall supply file documentation outlined below with each reimbursement request (OJT Invoice-DWD-PO-220). All information on documents related to the invoice must support the invoice information.

1. A copy of the timesheet or timecard showing daily hours worked which must be signed by both the employee and the immediate supervisor.
2. A copy of the payroll register, pay record, or check stub which shows computation of the gross wages and net wages paid. Note: Computation must agree to hours worked required in bullet above.
3. A copy of the cancelled check may be, but is not required to be, submitted.

Note: The form DWD-PO-220 OJT Monthly Progress Report/Invoice serves as an example. MJC or sub-contractors may utilize their own forms with permission of NEMO WDB if they meet all required elements.

VIII. Monitoring

Monitoring is the responsibility of the Training Operator (DWD and/or LWDB). NEMO WDB will perform both programmatic and fiscal monitoring at least annually as outlined in DWD Issuance 15-2010 and NEMO WDB Sub-State Monitoring Plan. Onsite monitoring of OJT employers to verify compliance and ensure validity and propriety of the reimbursement amounts claimed **is required** by the Functional Leader or designee at a minimum of mid-point of training and upon completion. During on site monitoring, attainment of the skills documented in the training plan must be notated on the Monitoring Form (DWD-PO-219), and in Service Notes in the State Case Management System.

To evaluate employer performance for re-contracting purposes, ascertain the following:

- Did the employer retain the completed OJT participants?
- Did monitoring identify training as poor or incomplete?
- Was there an increase or decrease in wages after training?
- Was the participant dismissed after training or during the follow-up period?
- Were there any participant grievances?

All employers will be required by the agreement to maintain their own internal supporting documentation in accordance with contractual record retention requirements.

1) Monitoring Conducted By Functional Leader

The Functional Leader shall comply with monitoring and documentation requirements as outlined in DWD Issuance 16-2015 Statewide Sub-State Monitoring

and the NEMO Workforce Development Board Sub-State Monitoring Plan.

2) Monitoring within the Northeast Region

- (a) Certification by employer that employee was not employed prior to the beginning of the OJT agreement. (Applicable to first reimbursement request for each OJT employee only.)
- (b) A copy of the payroll register, pay record, or check stub which shows hours worked and rate of pay. (To be submitted with each invoice.)
- (c) Prior to making payments, each OJT agreement with an employer, whether written for each individual OJT Trainee or as an agreement for multiple OJT Trainees, shall be monitored on site.

The Program Operator shall randomly select a sample of OJT participants for monitoring. For agreements with four (4) or less participants 100% must be monitored. For agreements with five (5) to ten (10) participants, 50% must be sampled. For agreements with ten (10) or more participants, 25% must be sampled for monitoring.

- (d) The monitoring shall, at a minimum, include verification of the following:
 - Time and attendance record used to prepare payroll of employer
 - A copy of payroll register, pay record, or check stub that sets out hours worked and rate of pay
 - The employer personnel action, which shows official date of hire, if the employer or another form that could closely verify employment date uses such a form. (Example: I-9 form; W-4 Form or MO W-4)
- (e) Documentation of monitoring shall include:
 - NEMO WDB standardized OJT programmatic Matrix
 - Evidence that any discrepancies noted are either sufficiently explained and/or repaid, if appropriate.
- (f) The NEMO Workforce Development Board requires that an onsite monitoring be conducted, at a minimum, at mid-term and upon completion. During the onsite monitoring, attainment of skills documented in the Training Plan must be noted on the DWD On-The-Job Monitoring Report (DWD-PO-219). In addition, the percentage of competencies completed must be noted on the Training Plan. Service notes are required to be placed in the case management system to document the onsite monitoring.
- (g) The required elements are meant to identify areas of concern regarding employee training, as well as documentation of successful training. Any problems noted concerning the training of the OJT trainee should be dealt with as they arise, so that immediate corrective action may be taken.

3) Monitoring Records Outside the Northeast Region

For OJT trainees whose payroll records are located outside the Northeast Region, the requirements listed below shall apply. The Program Operator shall conduct the review noted below before making payments instead of the procedures outlined in Section A.

- a) All documentation as required in **Section 2** shall be submitted to the Program Operator.
- b) Conduct a "desk audit" of all documentation submitted by the employer, including normal mathematical computations and comparison of endorsements, if any, to participant's file.
- c) If possible, at least once during the participant's training, a face-to-face interview should be conducted with the employer and employee to verify the hourly wage, approximately how many hours were worked during the pay period, the start date at the company and to confirm that the participant is being paid in accordance with the agreement.
- d) The Functional Leader or designated Missouri Job Center Staff conducting the interview as mentioned above (in #2C) shall prepare a written report using the DWD On-The-Job Monitoring Report (DWD-PO-219) and shall note the time, place and information used to verify the OJT reimbursements.

4) Monitoring Content for OJT Files and Case Management System

When monitoring OJT participant files and CMS will be reviewed for:

- (a) Compliance with state and federal guidelines
- (b) Appropriateness of training
- (c) Progression of training
- (d) Job descriptions contained in Training Plan must be consistent with the training
- (e) Reasonableness of training time
- (f) Specificity of description of skills, and
- (g) Appropriate signatures on documents outlined in this On-the-Job Training Practices and Procedures Manual
- (h) Updated Employment Plans/Individual Service Strategies
- (i) Regular contact with the participant and service notes posted
- (j) Completeness, including training plan and assurances
- (k) Employer and Participant payroll records
- (l) Invoicing and reimbursement documentation and service notes posted

5) NEMO Workforce Development Board Monitoring Oversight

Monitoring of OJT programs is part of the NEMO Workforce Development Board's official oversight responsibility. The NEMO Workforce Development Board will conduct a sub-state monitoring of programs as outlined in NEMO WDB Sub-state monitoring plan with a minimum of 10% of OJT employers who have contracted with the program operator. OJT employer's payroll and training system records will be monitored to ensure on-going integrity and compliance with WDB standards.

A. Monitoring Requirements

Programmatic and contractual compliance is structured to include, but not limited to, the following:

- 1) Require the subcontractor to implement the system as outlined in the Northeast Workforce Development Board On-the-Job Training Practices and Procedures Manual for OJT programs funded under the Workforce Innovation and Opportunity Act (WIOA);
- 2) Monitor OJT subcontractors at least annually as required by the Financial Manual and in compliance with the NEMO Workforce Development Board's Sub-state Monitoring Plan
- 3) Prepare a written report on all monitoring activities and require explanation and/or repayment for any deficiencies noted.
- 4) All corrective action responses provided by the Functional Leader shall be submitted to the One-Stop Committee and approved by the WDB board

B. Reporting

Sub-Contractors of the NEMO WDB should report OJT as a program cost on their monthly Financial Online Contract Progress Report (CPR). Additionally, report OJT on a quarterly basis as a line item on the separate reporting tool provided by Financial Management System. Program compliance will be reviewed and included as part of the sub-state monitoring report.

IX. Marketing

A sound outreach plan should be based on the premise that businesses will use an organization that serves their interests. Outreach efforts should begin with the Business Services Team and avoid duplicative efforts and administrative waste. Define outreach objectives locally to suit the area's employment conditions. Research labor market information using online resources, such as the Missouri Economic Research and Information Center ([MERIC](#)), [O*NET OnLine](#), and the North American Industry Classification System ([NAICS](#)).

OJT outreach can be a mix of direct and indirect methods. This can include face-to-face contacts with employers, mail-outs (introductory letters, notes of appreciation, newsletters), involvement with the Chamber of Commerce, press releases, networking with other agencies, i.e. Rotary, Kiwanis, Economic Development, and speaking to civic organizations.

Outreach strategies include:

- Researching companies before contact, and noting previous labor needs.
- Targeting high-growth and in-demand industries in the LWDA.
- Educating employers about how OJT can enhance their businesses, cut waste, skill up the workforce, reduce turnover, and increase profits.
- Projecting how OJT can save the company money.
- Offering the employer assistance with completing the required paperwork.

X. Outcomes

When a participant completes the OJT activity, use one of the following 3002 OJT Training Service outcomes and definitions in the participant's case management record:

- Retained by OJT Employer (Employed by the OJT employer).
- OJT-Related Employment (Employed in the same occupation and/or industry as the OJT; however, not with the OJT employer).
- Non-OJT-Related Employment (Employed in a different occupation and/or industry as the OJT).
- Service in Error (Service not provided).
- Did not Complete (Quit or terminated from the OJT).