



**Work-Based Training Policy – Drafted June 15, 2016**  
**Approved June 29, 2016**  
**Effective Date – July 1, 2016**

**DRAFT**

**I. Purpose**

To provide guidance on work based training for WIOA customers in the North Central Workforce Development Area.

**II. Background:**

The Workforce Innovation and Opportunity Act (WIOA) authorizes a number of Work-Based Training options that may be utilized, as appropriate, to assist job seekers to re-enter or advance in the workforce. Those to be utilized by the North Central Workforce Development Board include:

- Registered Apprenticeship
- On-The-Job Training
- Incumbent Worker Training
- Transitional Employment

**III. References:**

- Training and Employment Guidance Letter WIOA NO. 3-15 Operating Guidance for Workforce Innovation and Opportunity Act. (referred to as WIOA or the Opportunity Act)
- NCWDB OJT Policy and Procedures Manual – July 1, 2016
- WIOA Section (3)(44)
- WIOA Section 134( C) (3) (h)
- 20 CFR 380.530
- 20 CFR 680.780-820

**IV. Definitions:**

**High-Priority Occupation (HPO)** is an in-demand occupation that has higher skill needs and is likely to provide a family-sustaining wage. Statistical data, regional expert and local area inputs are combined to determine whether or not an occupation meets the high-priority criteria.

**Incumbent Worker** is an individual who is employed, meets Fair Labor Standards Act requirements for an employer-employee relationship, and has an established employment history with the employer for six (6) months or more.

**Incumbent Worker Training (IWT)** is training provided to an incumbent worker that is designed to meet the needs of an employer(s) to retain a skilled workforce or avert the need to lay off employees; increase the competitiveness of the employer or employee; and be conducted with a commitment by the employer to retain or avert the layoffs of the incumbent worker trained. Such training may also include the up-skilling of an employer's current workforce, which may lead to additional opportunities for potential jobseekers.

Note: IWT must lead to an in-demand occupation (as determined at the local level, but does not necessarily have to lead to a HPO. However, as all high-priority occupations are also in-demand occupations, such occupations are eligible for incumbent worker training.

**In-Demand Industry Sector** is an industry sector that has a substantial current or potential impact (including those jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

**In-Demand Occupation** is an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate.

Note: The determination of whether an industry sector or occupation is in-demand in a local area is made by the local board, as appropriate, using business and labor market projections and statistics.

**Individual with a "barrier to employment"** means a member of one or more of the following populations: a. Displaced homemakers b. Low-income individuals c. Indians, Alaska Natives, and Native Hawaiians d. Individuals with disabilities, including youth who are individuals with disabilities e. Older individuals, i.e. those aged 55 or older f. Ex-offenders g. Homeless individuals h. Youth who are in or have aged out of the foster care system i. Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers j. Eligible migrant and seasonal farmworkers k. Single parents (including single pregnant women) l. Long-term unemployed individuals m. Recipients of public assistance.

**Individuals with "chronic unemployment" or an "inconsistent work history"** are those who: 1) Have been unemployed for 13 weeks or longer; 2) Were unemployed at least 26 of the past 52 weeks; or 3) Have held three or more jobs in the past 52 weeks and are currently unemployed or underemployed.

## **V. Requirements and Procedures**

### **A. Registered Apprenticeship (RA)**

RA is an important component of potential training and employment services that the workforce system can provide to its customers. The North Central Workforce Development Board encourages the use of RA as a career pathway for job seekers and as a job-driven strategy for employers. RA programs are automatically qualified to be placed on the state and local board's Eligible Training Provider Lists (ETPL),

allowing ITAs to support participants in RA programs and more directly connect RA programs with our PA CareerLink® centers. The North Central WDB ITA policy must be followed for RA programs as any other program.

The North Central WDB may also work with RA program sponsors who desire to be Eligible Training Providers (ETPs). Examples include: Employers who provide related instruction or employers who use an outside education provider, Joint Apprenticeship Training Programs and Intermediaries. Below is a list of ways that training services may be used in conjunction with RA programs:

- An ITA may be developed for a participant to receive RA Training;
- An OJT contract may be developed with a RA program for training participants. OJT contracts are made with the employer, and RA generally involves both classroom and on-the-job instruction. The OJT contract may be made to support some or all of the OJT portion of the RA program;
- A combination of an ITA to cover the classroom instruction along with an OJT contract to cover on-the-job portions of the RA is allowed; and
- Incumbent worker training may be used for upskilling apprentices who already have an established working / training relationship with the RA program.
- Reporting on RA Participation – Refer to Training and Employment Guidance Letter (TEGL) 4-13, Workforce Investment Act (WIA) Performance Reporting System for details on how to report RA participation.

### **B. On-the-Job Training (OJT)**

OJT is training provided by the employer to a Workforce Innovation and Opportunity Act (WIOA) eligible trainee, who has completed career services available via the PA *CareerLink*® system, who has been unsuccessful in obtaining employment through such services, and who has been approved for OJT participation by the PA *CareerLink*® staff.

OJT is designed primarily for the individual who does not have the related education, training or work experience to immediately qualify for the job. Employers receive a reimbursement of up to 50% of the trainee's wages **not to exceed \$4,500** to help offset the costs of training during a fixed training period of up to twenty-six (26) weeks.

Please refer to the Workforce Solutions for North Central PA complete OJT Policies and Procedures manual prior to any OJT award being made.

### **C. Incumbent Worker Training**

**Reservation and Use of Funds** Workforce Solutions may reserve and use not more than 20 percent of the overall adult and dislocated workforce funds allocated to the local workforce development area for the federal share of the cost of providing training through a training program for incumbent workers. Workforce Solutions will exercise caution so that funds available for job seekers, especially those experiencing barriers to employments are not reduced. Workforce Solutions will utilize these funds to

support appropriate priorities of Next Gen Sector Partnerships as well as through a quarterly application process for individual employers as well as groups of employers.

**Employer Payment of Non-Federal Share.** Employers receiving funds for incumbent worker training are required to pay for the non-federal share of the cost of providing such training. In accordance with WIOA Sec. 134 (d)(4)(C-D), Workforce Solutions has established the non-federal share of such cost based on the size of the workforce as follows:

- At least 10 percent of the cost for employers with 50 or fewer employees;
- At least 25 percent of the cost for employers with 51 to 100 employees; and
- At least 50 percent of the cost for employers with more than 100 employees.

Wages paid to the participant while in training can be included as part of this share – no more than 50% of the required match. This is considered in-kind match. The remaining amount must be cash match.

Workforce Solutions staff will track and document employer cost share contributions. Official payroll records documenting the worker's hours and wages must be utilized to determine the amount of the employer's share of cost. The employer size means the number of employees currently employed at the local operation where the incumbent worker training placements will be made. Employer size is determined by the number of employees at the time of the execution of the incumbent worker training contract. This applies to all employers, including employers with seasonal or intermittent employee size fluctuations. When substantiating the employee count, information provided by the Pennsylvania Department of Labor & Industry's Center for Workforce Information and Analysis (CWIA) may be a source to consider. Such information as the most current Labor Market Information (LMI) and local employer site information, including an employee size range for each local operation is available through data provided by CWIA.

### **Eligibility Criteria.**

A. Incumbent Worker. An incumbent worker must be:

1. Employed;
2. Meet the Fair Labor Standards Act requirements for an employer-employee relationship; and
3. Have an established employment history with the employer for six (6) months or more.

Note: Incumbent worker eligibility requirements differ from career and training services requirements for adults and dislocated workers. Workforce Solutions staff will coordinate with PA CareerLink staff, in particular agencies with which we have an active subcontract, for the CWDS data entry requirements.

B. Employer. Workforce Solutions has defined employers eligible to receive WIOA incumbent worker funds as:

Private-for-profit businesses, private non-profit organizations, and public sector employers.

An employer will NOT be eligible to participate in IWT contracts if:

1. The employer has any other individual on layoff from the same or substantially equivalent position.

2. The IWT would infringe upon the promotion of or displacement of any currently employed worker or a reduction in their hours.
3. The same or a substantially equivalent position is open due to a hiring freeze;
4. The positions are for seasonal employment.
5. The employer is a private for-profit employment agency, i.e. temporary employment agency, employee leasing firm or staffing agency.
6. The position is not full time, i.e. minimum of 32 hours per week.
7. The employer has laid off workers within 120 days to relocate to Pennsylvania from another state; and
8. The employer is not current in unemployment insurance and workers' compensation taxes, penalties, and/or interest or related payment plan.

In addition, applications for IWT contracts will be awarded based on the following:

1. Extent to which proposed training is aligned with the vision and goals of Workforce Solutions as established in the local and regional workforce plans.
2. The characteristics of the incumbent workers to be trained will be considered.
3. The extent to which the participants will benefit from the training – at the minimum a skills gain must be provided that will result in retention or advancement.
4. The quality of the training (e.g., industry-recognized credentials, advancement opportunities, etc.);
5. The number of participants the employer plans to train or retrain;
6. The wage and benefit levels of participants (before and after training); with a minimum of a 3% increase per employee/ incumbent worker.
7. The occupation(s) for which incumbent worker training is being provided must be in-demand as defined by WIOA Section 3(23) and as determined by workforce development area-specific labor market information produced by CWIA;
8. Employer's industry status.
  - Is the employer in:
    - An in-demand industry as defined by WIOA Section 3(23) and determined by CWIA labor market information; or
    - A stable industry as determined by CWIA labor market information; or
    - A declining industry, but there are compelling reasons (e.g., evidence of long-term viability of the employer) justifying investment in incumbent worker training.
9. Training must not be a training that was previously or currently eligible for WEDNet reimbursement.
10. Training cannot be a program required by local, state or federal agencies.
11. Training that is associated with layoff aversion and retention will be given priority.
12. A threshold will be established through the application process (maximum per person, maximum per company, etc.)

#### **Collection of Performance Information:**

Workforce Solutions will coordinate with staff of the PA CareerLink centers on the collection and dissemination of performance information. This policy and the application for funding will be posted on the Workforce Solutions website at [www.workforcesolutionspa.com](http://www.workforcesolutionspa.com). Employers or groups of employers will submit applications to Workforce Solutions on a quarterly basis with a release date to be determined.

#### **Provider Requirements**

With assistance from PA CareerLink® staff, participating employers must guarantee that:

1. Employees who have financial responsibilities related to the receipt and disbursement of funding under the Agreement shall be covered by fidelity bonding.
2. The training to be provided will be in accordance with WIOA 181(a)(1)(A) and 683.275 for wage and labor standards. Worker protection requirements are set forth in WIOA Sections 181(a) (1) (A) and (B), (b) (2), (3), (4) and (5) and 188.
3. The host site and provider agree to cooperate with monitoring efforts as required by WIOA legislation and adhere to all other applicable local, state and federal rules and regulations.
4. Funds are not used to directly or indirectly assist, promote or deter union organizing.
5. The employer agrees to respond to Workforce Solutions/PA CareerLink® staff requests for wage and retention information of participants.
6. There is no expectation that the employer providing the TJ placement will hire the participant permanently.
7. If the participating employer(s) has recently relocated, resulting in the loss of employment of any employee of such business at the original location in the U.S., TJ placements may not be granted to the employer(s) until after 120 days have passed since the relocation.

Agreement or contracting process with providers of incumbent worker training – Workforce Solutions will contract directly with the training provider for all incumbent worker training and will collect the required cash and in-kind match from each of the employers involved in the training.

**Conflict of Interest.** A state board member, a local board member, or a standing committee member must neither cast a vote on, nor participate in any decision-making capacity, on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or the member's immediate family. For example, a local board member who is also an employer who wants to use services on a fee-for-service basis would be prohibited from voting to approve the use of local area services, facilities, or equipment for employment and training activities to such board member's incumbent workers. Neither membership on the state board, local board, or standing committee, nor receipt of WIOA funds to provide training and related services, by itself, violates these conflict of interest provisions. In accordance with §200.112 of the Uniform Guidance, recipients of federal awards must disclose in writing any potential conflict of interest. Sub-recipients must disclose in writing any potential conflict of interest to the recipient of grant funds.

#### **D. Transitional Jobs (TJ)**

Transitional jobs are a new type of work-based training allowable under WIOA that:

- a. Is time limited and subsidized;
- b. Is in the public, private, or nonprofit sector;
- c. Is provided to individuals with barriers to employment who are chronically unemployed or have an inconsistent work history;
- d. Is combined with comprehensive employment and supportive services; and
- e. Is designed to help participants establish a work history, demonstrate success in the workplace, and develop the skills that lead to entry into and retention in unsubsidized employment.

The goal of transitional jobs is to establish a work history for the individual that demonstrates success in the workplace, and develops the skills that lead to entry into and retention in unsubsidized employment. Unlike OJT, there is no assumption that the individual will be retained in their transitional job after the experience is over, though that would be a successful experience and outcome.

## **Eligibility Requirements**

**Participant Eligibility** For an individual to qualify for TJ under the WIOA guidelines, he/she will:

1. Have enrolled with PA CareerLink® in the North Central WDA in the WIOA Adult or Dislocated Worker programs.
2. Have completed an initial assessment and have been determined to be an individual with a barrier to employment and a history of chronic unemployment or an inconsistent work history. Assessment tools must be approved in advance by Workforce Solutions staff. Supporting documentation proving eligibility is required; additional information can be found in Workforce Solutions Eligibility policy.
3. Be currently unemployed.

## **Employer Eligibility**

Eligible employers able to participate as a TJ placement site include: private-for-profit businesses, private nonprofit organizations, and public sector employers.

An employer will NOT be eligible to participate as a WIOA TJ placement site if:

1. The employer has any other individual on layoff from the same or substantially equivalent position.
2. The TJ would infringe upon the promotion of or displacement of any currently employed worker or a reduction in their hours.
3. The same or a substantially equivalent position is open due to a hiring freeze.
4. The employer is a private for-profit employment agency, i.e. temporary employment agency, employee leasing firm or staffing agency.

## **TJ General Requirements**

1. TJ must be combined with comprehensive career services and supportive services.
2. TJ placements should contribute to the occupational development and upward mobility of the participant.
3. Per WIOA regulations (20 CFR 683.200(g)), “no individual may be placed in an employment activity if a member of that person’s immediate family is directly supervised by or directly supervises that individual.” For the purpose of this policy, the term “immediate family” includes a spouse, child, son-in-law, daughter in-law, parent, mother in-law, father-in-law, sibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, and grandchild.

## **WIOA TJ Length**

TJ must be time limited (no more than 6 months and preferably 8 to 12 weeks) and require at least fifteen (15) but not more than forty (40) hours of work per week.

## **WIOA TJ Funding Levels**

All TJ placements must pay at least \$8.00 per hour as wages earned by a participant. Providers are encouraged to develop TJ placements that pay a family sustaining wage and leverage additional funding to offset this cost.

### **TJ Provider Requirements**

With assistance from PA CareerLink® staff, participating employers must guarantee that:

1. Employees who have financial responsibilities related to the receipt and disbursement of funding under the Agreement shall be covered by fidelity bonding.
2. The training to be provided will be in accordance with WIOA 181(a)(1)(A) and 683.275 for wage and labor standards. Worker protection requirements are set forth in WIOA Sections 181(a) (1) (A) and (B), (b) (2), (3), (4) and (5) and 188.
3. The host site and provider agree to cooperate with monitoring efforts as required by WIOA legislation and adhere to all other applicable local, state and federal rules and regulations.
4. Funds are not used to directly or indirectly assist, promote or deter union organizing.
5. The employer agrees to respond to Workforce Solutions/PA CareerLink® staff requests for wage and retention information of participants.
6. There is no expectation that the employer providing the TJ placement will hire the participant permanently.
7. If the participating employer(s) has recently relocated, resulting in the loss of employment of any employee of such business at the original location in the U.S., TJ placements may not be granted to the employer(s) until after 120 days have passed since the relocation.

### **VI. Expiration:**

Ongoing

### **VII. Technical Assistance/Inquiries:**

Questions should be directed to: Pam Streich [pstreich@ncwdb.org](mailto:pstreich@ncwdb.org) or Susan R. Snelick  
[ssnelick@ncwdb.org](mailto:ssnelick@ncwdb.org) (814)245-1835

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