



## MONTGOMERY COUNTY WORKFORCE DEVELOPMENT BOARD, MONTCOWORKS WIOA ON-THE-JOB TRAINING POLICY

### REVISED

This policy has been revised to add further clarification regarding staffing agencies as eligible employers, approved by the MontcoWorks board on April 8, 2022.

### PURPOSE

The purpose of this policy is to articulate how On-the-Job Training (OJT) funds are to be administered in Montgomery County under the Workforce Innovation and Opportunity Act (WIOA).

### BACKGROUND

The Workforce Innovation and Opportunity Act (Public Law 113-128) is a 2014 law designed to help job seekers across employment, education, training, and support services succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. This policy applies to all Montgomery County Adult and Dislocated Worker participants who will participate in OJT as well as employers and/or training providers through which an OJT contract is established.

### REFERENCES

- WIOA (Public Law 113-128)
- 20 CFR §680

### DEFINITIONS

**Adult** – an individual who is age 18 or older.<sup>1</sup>

**Dislocated Worker** – an individual who:

- (i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment; (ii) (I) is eligible for or has exhausted entitlement to unemployment compensation; or (II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in WIOA section 121(e), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and (iii) is unlikely to return to a previous industry or occupation;
- (i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; (ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or (iii) for purposes of eligibility to receive services other than training services described in WIOA section 134(c)(3), career services described in WIOA section 134(c)(2)(A)(xii), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;
- was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;
- is a displaced homemaker; or
- (i) is the spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code), and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or (ii) is the spouse of a member of the Armed Forces on active duty and who meets the criteria described in paragraph (16)(B).<sup>2</sup>

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<sup>1</sup> WIOA §3(2)

<sup>2</sup> WIOA §3(15)



**Incumbent Worker** – a worker who is (a) employed, (b) meets the Fair Labor Standards Act requirements for an employer-employee relationship, and (c) has an established employment history with the employer for six months or more.<sup>3</sup>

**On-the-Job Training** – training by an employer that is provided to a paid participant while engaged in productive work in a job that:

- provides knowledge or skills essential to the full and adequate performance of the job;
- is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in WIOA section 134(c)(3)(H), for the extraordinary costs of providing the training and additional supervision related to the training; and
- is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.<sup>4</sup>

## GENERAL POLICY

- OJT will be provided under a contract between MontcoWorks and an employer or registered apprenticeship program sponsor in the public, private non-profit, or private for-profit sector.<sup>5</sup>
- OJT will consist of occupational training for the participant in exchange for reimbursement to the employer.
- OJT 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.<sup>6</sup>
- It is the expectation of MontcoWorks that employers who use OJT funding will hire individuals receiving training as full-time employees, providing benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.
- WIOA funds may not be used in conjunction with The Pennsylvania Department of Education Customized Job Training Program.
- 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.<sup>7</sup>

## ELIGIBILITY REQUIREMENTS

### *Participant Eligibility*

Eligible participants must:

- Be an Adult or Dislocated Worker who receives a PA CareerLink® interview, evaluation, assessment, or career planning suitable to determine eligibility under WIOA § 134(c)(3)(A) or 20 CFR §680.210, and a determination of need for training services under 20 CFR §680.210
- Have an Individual Employment Plan (IEP), wherein the participant's interests, abilities and needs are identified

Priority for OJT will be given to new hires. When funds are available, OJT may be provided for eligible incumbent workers. An incumbent worker may be eligible when:

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

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<sup>3</sup> WSG No. 06-PY2015, April 1, 2016

<sup>4</sup> WIOA §3(44)

<sup>5</sup> 20 CFR 680.700(a)

<sup>6</sup> 20 CFR 680.700(c)

<sup>7</sup> 20 CFR 683.200(g)



- The OJT relates to the introduction of new technologies, the introduction to new production or service procedures, upgrading to a new job that requires additional skills, workplace literacy, or other appropriate purposes identified by MontcoWorks.<sup>8</sup>

### *Employer Eligibility*

Eligible employers include private for-profit businesses, private non-profit organizations, and public sector institutions.

A staffing agency is an eligible employer if the staffing agency meets the following conditions:

- The position is “temp-to-hire” and the host employer will hire the participant within a time as defined by MontcoWorks policy.
- The placement from the staffing agency must be full-time as defined by the host employer.
- The OJT participant wages and working conditions are 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.

Eligible employer industries include healthcare; manufacturing; construction; IT; energy; and professional, scientific, and technical services.

Employers who wish to participate in OJT must apply to be on the MontcoWorks Local Training Provider List. Employers must also submit a completed application and a Training Plan and Job Description for each position to be included in an OJT contract with MontcoWorks.

With assistance from MontcoWorks staff, participating employers must guarantee that:

- Employers who have financial responsibilities related to the receipt and disbursement of funding under the OJT contract shall be covered by fidelity bonding.
- 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.
- The employer will cooperate with oversight efforts as required by WIOA legislation and adhere to all other applicable Local, State and Federal rules and regulations.
- Funds are not used to directly or indirectly assist, promote or deter union organizing.
- The employer will respond to MontcoWorks and PA CareerLink® Montgomery County staff requests for wage and retention information of participants.
- The employer will retain the trained employees for a minimum of six months following the completion of training. Failure to do so may result in the employer being ineligible to receive further MontcoWorks training funds for a period of one year.

If employees at the worksite are covered by a collective bargaining agreement, a Union Concurrence Sign-Off is necessary; MontcoWorks will provide a Sign-Off form.

An employer will be ineligible to receive OJT reimbursements if:

- The employer has exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work<sup>9</sup>;
- The employer has any other individual on layoff from the same or substantially equivalent position within the last 60

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<sup>8</sup> 20 CFR 680.710

<sup>9</sup> 20 CFR 680.700(b)



days;

- The employer has relocated within the last 120 days, resulting in the loss of employment of any employee;
- The employer is a private for-profit employment agency, i.e. temporary employment agency, employee leasing firm or staffing agency (unless the above staffing agency clarification is met); and/or
- The employer is in violation of Local, State, or Federal laws and/or regulations which prohibit its ability to contract with MontcoWorks.

### *Occupation Eligibility*

OJT dollars must be used on High Priority Occupations (HPOs) which lead to employment opportunities enabling participants to become economically self-sufficient which will contribute to the occupational development and upward mobility of the participants.

The maximum time frame for an OJT is 6 months. The duration of an OJT is a function of training needed, not the maximum allowed under this policy. MontcoWorks staff should consult with the employer and utilize the Occupational Information Network's (O\*NET) Specific Vocational Preparation (SVP) Range to determine the appropriate occupational training needed.

At the time of completion of the OJT program, individuals must be employed in occupations that meet the following criteria:

- The occupation is listed as a High Priority Occupation on the MontcoWorks HPO list.
- The occupation is defined as a full-time permanent position by the employer following the training, with a minimum of 32 hours per week.
- The minimum starting wage rate is the highest of:
  - Applicable Federal minimum wage rate
  - Applicable State or Local minimum wage rate
  - Any minimum rate required by a collective bargaining agreement
  - Self-sufficiency wage for Montgomery County

The following are instances in which a position will not be approved for OJT:

- The position is seasonal, intermittent, part-time, or temporary.
- The primary source of income is commission, piece rates and/or tips.
- The occupation involves political or religious activities, or supports political or religious organizations.
- The OJT would infringe upon the promotion of or displacement of any currently employed worker or a reduction in their hours.
- The same or a substantially equivalent position is open due to a hiring freeze.
- The position is for a low-skill job that requires little or no training.

### **FUNDING**

The OJT program will reimburse an employer up to 50% of the participant's wage for the hours listed in the training plan, not to exceed \$7,000 per participant. Reimbursement is intended to help offset the cost of training the individual to become a fully productive employee. The employer will be reimbursed based on trainee hours worked only. There are no reimbursements for:

- Paid Holidays
- Vacation Days
- Sick Days
- Shift Differentials
- Overtime
- Other non-regular wages

Changes to the reimbursement schedule will be considered for trainings in which the participant receives an industry



recognized credential or for employers utilizing MontcoWorks OJT services for the first time. Employers interested in training five or more new workers at once should refer to MontcoWorks' Customized Job Training policy.

### **REPORTING**

The employer is expected to complete a monthly progress report for each participant. It is expected that the employer will make the participant aware of his/her progress at that time. The participant is required to sign progress reports and timesheets for verification of progress awareness, wages received, and hours worked. The employer must submit monthly invoices with payroll record validation and progress reports in order to be reimbursed.

### **OVERSIGHT**

Oversight will be completed in accordance with MontcoWorks' Oversight Plan. Oversight may include a review of the participant training and corresponding employer payroll records. To ensure validity and propriety of the reimbursement amounts claimed, and that the training for which the contract is written is actually delivered, on site monitoring of OJT employers may occur.