# NEWDB MEMO 06-2021

**Date:** December 16, 2021

**To:** Dynamic Workforce Solutions

**From:** NEWDB

**Subject:** OJT – Employed Workers

# Message

NEWDB has adapted a revision to the OJT Policy that allows the use of OJT services and contracts with existing workers, already employed with the OJT employer. The NEWDB policy will be updated at the February 9, 2022 board meeting. In the interim period, this memo, effective December 16, 2021, provides guidance and procedures so efforts to support businesses and job seekers can begin immediately as outlined in the memo.

# Policy References

This updated procedure utilizes guidance from CFR [§ 680.710](https://www.law.cornell.edu/cfr/text/20/680.710) as a point of reference:

**§ 680.710 What are the requirements for on-the-job training contracts for employed workers?**

OJT contracts may be written for eligible employed workers when:

1. The employee is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment, as determined by Local WDB policy;
2. The requirements in § 680.700 are met; and
3. The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the Local WDB.

# Message:

Below is language from the revised OJT policy, which is implemented through this memo. The majority of the revised process can be identified in Section 2 “Participant Eligibility”. Language below replaces existing language in like sections of the current NEWDB OJT Policy.

**POLICY: ON-THE-JOB TRAINING (OJT)**

OJT must be executed through a written contract to provide a structured occupational training opportunity for the OJT trainee which:

* provides knowledge or skills essential to the full and adequate performance of the job;
* provides reimbursement to the employer of up to 50 percent of the wage rate of the trainee, for the extraordinary costs of providing the training and additional supervision related to the training and up to as much 75% in consideration of additional factors as described in WIOA Section 134 (c)(3)(H). Flexibility to increase the reimbursement level up to 75% taking into account the following factors:
* Characteristics of the participants, taking into consideration whether they are individuals with barriers to employment as defined in WIOA 3(24)

 –Defined locally as long-term unemployed (27 weeks or longer);

* The size of the employer, with an emphasis on small businesses
* – The employer must have fewer than 100 employees;
* Quality of employer-provided training and advancement opportunities – The employer’s quality training in in-demand occupations leads to an industry recognized certification;
* The employer pays a beginning rate of pay of $13.08 or higher; and
* is limited in duration as appropriate to the occupation for which the trainee is being trained, taking into account the content of the training, the prior work experience of the trainee and the service strategy of the trainee, as appropriate.

The contract must be completed and signed before the start of the OJT training period and position. If either the OJT employer or trainee is located out of the NEWDB service delivery area or the State of Oklahoma, the trainee’s residence must be within a 50-mile radius of the OJT training site. Priority will be given to trainees and employers within the NEWDB service delivery area. OJTs outside the NEWDB service delivery area must be approved by the NEWDB Executive Director. The Service Provider must submit a written request for NEWDB approval, including justification and supporting documents, prior to the enrollment of individuals in “out of area” OJT’s. The Service Provider and the employer must sign an OJT Contract for each OJT trainee.

**Wage Cap:**

For the purposes of these OJT training contracts, the training reimbursement is restricted by a wage cap as established by the Department of Labor’s Employment and Training Administration (DOLETA). The NEWDB will reimburse an employer from 50 percent and up to 75 percent, under conditional factors (listed on page 3), of the OJT trainee’s wages, not to exceed the state’s average hourly wage rate. Refer to the current [Bureau of Labor and Statistics Occupational Employment Statistics](https://www.bls.gov/oes/).

While the Service Provider may enter into contracts with employers who elect to pay trainees more than the state average wage, the employer cannot receive a training reimbursement beyond a percentage of the capped level. Employers are required to compensate OJT trainees at the same rates as trainees or employees who are employed in comparable occupations by the same employer and who have similar training, experience, and skills. However, if the job pays less than the capped level for similar work, the OJT wages and training reimbursement should be based on this lesser level. The OJT trainees should not be paid more simply because the state’s average wage makes available a higher reimbursement threshold.

**Participant Eligibility:**

General Eligibility:

An individual may be considered for an OJT when he/she has met the eligibility requirements for the, Adult, Dislocated Worker or Youth program, and has been determined to be in need of a training service. Once deemed eligible, the individual will then receive the comprehensive or objective assessment and an Individual Employment Plan (IEP)/Individual Service Strategy (ISS) will be developed.

**Employed Participant Eligibility**:

As identified in CFR [§680.710](https://www.law.cornell.edu/cfr/text/20/680.710) (see above) OJT’s may be written for Employed Workers under specific circumstances. In order to provide an OJT with an employee at an employer for which he is already employed, the following must occur:

* All criteria outlined in CFR §680.710 are met as follows:
	+ Determination as to whether the employee is currently earning a self-sufficient wage. Review via NEWDB [Self-Sufficiency Policy](http://northeastworkforceboard.com/about-us/policies/).
	+ Determination of the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the Local WDB, see directly below; will be determined by outlining new skills to be developed through the OJT in the “Trainee Work Plan” (attachment C) in combination with a comparison of the participant’s existing skill levels in their current position. A comparison of job descriptions will be utilized to determine an appropriate difference in skill needs. The job descriptions will be uploaded as supporting documents with the OJT document uploads.
* Other appropriate purposes are defined by the NEWDB as:
	+ The participant begins new role or position with the employer.
		- This will be validated through verification from the employer of the participants official Position Start Date.
* The participant receives a wage increase that moves them toward self-sufficiency.
	+ - This will be validated by the service provider through payroll documentation of previous and proposed wage and through documentation in the program notes.

**Documentation:**

The documentation listed below will be uploaded in compliance with the state and local Data Validation Policies. Documentation must be maintained in the OJT Contract file along with other required elements stated in this guidance:

* Pre-Award Review Form
* OJT Contract
* OJT Employer and Employee Orientation Documentation
* Proof of Workers Compensation Insurance Coverage
* Any modifications to the Training Contract
* Training Time Documentation, to include Employer’s Time punch in/out validation as well as “Monthly Time & Attendance Record” form.
* Training payment invoices
* Evaluations
* Monitoring reports, including problems, corrective action, and follow-up

Questions related to implementation can be sent to Jeremy.Frutchey@northeastworkforceboard.com .