

Area 14 Workforce Development Board

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Customized Training

Area 14 Policy 14.15-24

Effective: May 15, 2019



I. Purpose

This policy provides guidance on the requirements for customized training.

II. Effective Date

Immediately

III. Background

Customized training is one type of work-based training model and is designed to meet the specific requirements of an employer or group of employers. WIOA establishes that local workforce development boards (WDB) may offer customized training through an agreement with either a vendor or employer.

IV. Definitions

Customized training: training that is designed to meet the specific requirements of an employer (including a group of employers); is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and for which the employer pays:

- 1) A significant portion of the cost of training as determined by the local board involved, taking into account the size of the employer and such other factors, as the local board determines to be appropriate, which may include the number of employees participating in training, wage and benefit levels of those employees (at present and anticipated upon completion of the training), relation of the training to the competitiveness of a participant, and other employer-provided training and advancement opportunities; and
- 2) In the case of customized training involving an employer located in multiple local areas in the state, a significant portion of the cost of the training, as determined by the Governor of the State, taking into account the size of the employer and such other factors as the Governor of the State determines to be appropriate.

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Planning region: two or more local workforce development areas assigned by the state to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

IV. Business Requirements

All employers seeking customized training assistance must submit a completed copy of Area 14's application for employer training assistance. See the attached, which is to be used by employers who are seeking IWT, OJT, or CT assistance. Each application will experience a review which will be conducted by the sub-area's OhioMeansJobs supervisor and the sub-area's WIOA program operator for the program being utilized (Adult/Dislocated, Youth, CCMEP). If more than one program's funding will be utilized, all program operators will meet with the supervisor to determine if the application will be approved.

This type of training being offered in local formula-funded programs, **participants must meet all youth, adult or dislocated worker eligibility** requirements prior to the start of customized training. Participants will be required to complete a WIOA application in order to determine eligibility. TABE testing is not needed.

The Area Workforce has sole discretion to accept or reject any and all applications, based upon the criteria set forth within this policy, and/or any other relevant criteria it deems appropriate. The Sub-Area may cease taking applications when its budgeted resources for training have been exhausted.

Training will be considered only if the application and training plan is submitted sufficiently prior to the training start date to allow time for application review process. Any costs incurred, or monies expended by the employer or consortium applicant on the project prior to the final approval of the training provider, the budget, and the execution of the written Agreement, will be done at the employer's own expense. The employer's decision to go forward does not obligate the Area and/or the Sub-Area's adult and dislocated worker provider to offer assistance before all required approvals are obtained. Training expenses shall be reimbursed only if the Sub-Area's adult and dislocated worker provider has first:

- approved the training application,
- procured a training provider if required, and
- provided and entered into a written agreement.

V. Terms and Conditions of Customized Training

A. Purposes of Customized Training.

Customized training may be provided for:

1. the introduction of new technologies,
2. new production or service procedures,
3. upgrading existing skills, or
4. other appropriate purposes.

As with all training services, the customized training must enable individuals to obtain industry or employer-recognized skills.

B. Educational Provider/Trainer Considerations.

Customized training may be provided through one of the two following methods:

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1. individual training accounts (ITAs), or
2. through a contract for services that is procured.

If the training is provided through an ITA, all requirements associated with the provision of an ITA must be followed, including the use of approved eligible training providers per Area Policy 14.16-02.

If the training does not involve the use of ITAs with approved eligible training providers, a separate written contract must be entered into, after the Area/Sub-Area has first engaged in required federal, state, and local procurement procedures, relating to the securing of the educational provider/trainer.

While employers may suggest a trainer or educational institution, the Workforce Area and/or the Sub-Area's adult and dislocated worker provider must approve the trainer/educational institution to be used. In determining whether a trainer/educational institution is acceptable or not, the following criteria will be considered:

- satisfactory past performance,
- accreditation,
- curricula that lead to credentials,
- relevant training experience, accredited instructors,
- proven high job placement rates,
- proven high training completion rates,
- a proposed training environment that supports learning and is within reasonable proximity to the trainees, so the cost and time required for travel is minimized.

Business Considerations

Area 14 will not enter into a customized training agreement with an employer who has exhibited a pattern of failing to retain individuals after successful completion of the customized training.

Businesses that fail to meet any of the following qualifying criteria are not eligible to receive funds for customized training:

- 1) Businesses must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the state of Ohio. Below are three websites that may be helpful in checking tax, environmental compliance, and debarment status.

Federal Debarment Site: <http://www.sam.gov>

Ohio Department of Taxation: <http://www.tax.ohio.gov>

Business Filing Search: <http://www.sos.state.oh.us>

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- 2) Businesses must not have any outstanding tax liability for over six months to the state of Ohio. WDBs will require the businesses to disclose any known outstanding tax liabilities with other states prior to entering into contract. Area 14 will consider existing out-of-state violations when determining eligibility to receive customized training funds. Area 14 must document any resolution of outstanding tax liability, which may include letters from the business or from the State from which the tax liability occurred.
- 3) Businesses must ensure that they do not have more than one unfair labor practice contempt of court finding, and that they are not identified as such on the most recent list established by the Secretary of State.
- 4) Ohio businesses must have all the approvals, licenses, or other qualifications needed to conduct business in the state and all must be current. Should this status change during the local customized training program activities and the business be disqualified from conducting business in Ohio, all training under the customized training program must cease.
- 5) Governmental entities, including the city, county and state, may not participate in the local customized training program. Health care providers that are operating as not-for-profit entities are the only allowable exceptions to this prohibition.
- 6) Businesses that have employees in a lay-off status should not be considered for customized training unless the training would avert additional layoffs.
- 7) Businesses that have relocated to Ohio and have laid-off workers at their former location in the United States may not be considered for this program until they have been in operation at the new location for 120 days.

To verify that a business is not relocating employment from another area, a pre-award review must be undertaken and documented by the Area 14's WDB. The review must include the names under which the establishment conducts business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is being sought in connection with past or impending job losses at other facilities of their company. The pre-award review should also include a review of whether appropriate notices have been filed, as required by the Worker Adjustment Retraining Notification (WARN) Act. The review may also include consultations with labor organizations and others in the affected local area(s).

- 8) Businesses must not have any outstanding civil, criminal or administrative fines or penalties owed to or pending in the state of Ohio.

Area 14 will only consider businesses for customized training if:

- 1) The training is in an in-demand occupation.
- 2) The employee will make at least \$9 an hour at the onset of training, and once training is completed, their rate of pay will increase to \$10 an hour.

Training Agreements

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Customized training agreements may be written for unemployed as well as employed workers. This type of training may be provided to an eligible employed individual when the employee is not earning a sufficient wage as determined by the local workforce development area's policy, the requirements of a customized training are met, and the training relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, or other locally defined purposes. Employed workers will include full-time. If employed part-time, after training it will lead to full-time employment.

Unless the trainee is unemployed, in order to participate in customized training, an "employer-employee" relationship must exist between the trainee and the business that is seeking local WDB approval to perform customized training. Individual workers who are independent contractors are not eligible to participate in customized training. Independent contractors fall under the category of self-employment. Trainees must meet the definition of employment found in rule 4141-3-05 of the Ohio Administrative Code (OAC).

Provisions to be included in the customized training agreement include all of the following:

1) Good and effective agreements should include:

- a) The occupation for which training will be provided; the skills and competencies to be achieved and the length of time for the training;
 - b) The industry- or employer-recognized credential that will be attained upon completion of the training;
 - c) The number of employees to be trained;
 - d) The employer's assurance that customized training is needed, based upon the individual skill sets of trainees;
 - e) The method and maximum amount of reimbursement (employer match);
 - f) Job description(s) of the trainees and a training outline;
 - g) The cost and documented description of any ancillary items or supportive services that may be needed; and
 - h) Other appropriate training outcomes related to the training (i.e. increases in earnings).
- 2) Customized training agreements are to contain appropriate assurances and certifications as specified in this issuance.
- 3) Written endorsement from a union official is required when the workplace is covered by a collective bargaining agreement.

When working with a group of employers (employer consortiums), the local WDB may decide with whom to contract and the details set forth therein. If the consortium is a legal entity and the participating employers are in agreement on their match requirements, the local WDB may contract with the

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consortium directly and accordingly, the match requirement would be paid by the consortium. It is also allowable to enter into individual contracts with each participating employer. Regardless of what entity the contract is with, all requirements, expected outcomes, and assurances described in this issuance must be met.

Prior to the execution of a training agreement, the local workforce development area must obtain a commitment from the participating employer(s) of the following, at a minimum:

- 1) That successful completion of the customized training will result in portable skills, and retention and placement of the trainee into permanent employment that offers good pay and benefits, with opportunities for career advancement;
- 2) That continued training will be provided for trainees who need help with remedial skills or other skills to retain their jobs; after completion of customized training; and
- 3) That training will be aligned with industry or employer recognized skill standards, as defined by the WIB and/or the employer.

Allowable and Unallowable Costs for Customized Training

Allowable costs may include only costs directly related to training. Examples of allowable costs include, but are not limited to the following:

- 1) Instructor's / trainer's training-related wages;
- 2) Curriculum development; and
- 3) Textbooks, instructional equipment, manuals, materials and supplies.

Unallowable costs for customized training include, but are not limited to:

- 1) Trainees' benefits/fringes;
- 2) Wages of trainees while attending customized training;
- 3) Costs that are not directly related to customized training for eligible individuals under Title I;
- 4) Foreign travel; and/or
- 5) Purchase of capital equipment.

Employer Match Requirements

Area 14 will require employers to make a 50% match which can include the wages they are giving a worker to attend the training. Those wages must match or exceed at least 50% of the reimbursement for customized training.

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Step 1 is to identify the individual training items and establish the total training budget. This budget may include **trainee wages** while attending training and the wages can count for the employer match. But, the WIOA costs cannot include trainee wages.

Step 2 is to calculate the employer match and the WIOA cost. This calculation varies based upon allowable and unallowable WIOA costs. Typically, the variable is the trainee wages.

If trainee wages are **less than or equal to** the employer match, an adjustment is not necessary. Just multiply the total budget by the selected percentage to establish the employer and WIOA expense.

If trainee wages **are greater than** the employer match, an adjustment is necessary to prevent unallowable WIOA costs. When calculating the employer match and the WIOA costs, subtract the excess wages over **50%**.

VI. Monitoring

Program Operators are required to maintain and report accurate program and financial information. Pursuant to rule 5101:9-30-04 of the Ohio Administrative Code, information regarding WIOA participants and their activities and performance must be entered into Ohio Workforce Case Management System (OWCMS) accurately and within 30 days. OWCMS may be used to assist in the determination of eligibility. WIOAPL No. 15-07, Source Documentation for WIOA Eligibility, lists the type of acceptable documentation to verify eligibility for the WIOA adult and dislocated worker programs.

The Area 14 Workforce Development Board will conduct oversight of the implementation of the WIOA adult and dislocated programs to ensure that participants enrolled in the programs are eligible and that eligibility has been properly documented. Program Operators are required to make available to the board and/or contracted monitors all relevant participant files, documents and paperwork. Program files will be monitored yearly unless it is determined by the board there is a need for more frequent monitoring.

VII. Technical Assistance

For additional information, you may send your questions to the Area 14 Workforce Development Director. Contact information can be found on the Area 14 website: <https://www.ohioarea14.org/>

VIII. References

Workforce Innovation and Opportunity Act, §§ 3(14), 106, 134(c)(3)(D), Public Law 113-128.
NPRM § 680.760 found at 80 Fed. Reg. 20861 (April 16, 2015) (to be codified at 20 C.F.R. § 680.760).
NPRM § 680.770 found at 80 Fed. Reg. 20861 (April 16, 2015) (to be codified at 20 C.F.R. § 680.770).
2 CFR Part 200, Appendix II.
O.A.C. 4141-3-05, Definition of employment, January 1, 2001.