



Employment Security Department

WASHINGTON STATE

Workforce Innovation and Opportunity Act Title I Policy Employment System Administration and Policy

Washington envisions a nationally recognized fully integrated One-Stop system with enhanced customer access to program services, improved long-term employment outcomes for job seekers and consistent, high-quality services to business customers. In order to achieve this vision, Employment System Administration and Policy sets a common direction and standards for Washington's WorkSource system through the development of WorkSource system policies, information memoranda, and technical assistance.

Policy Number: 5616 Revision 1

To: Washington WorkSource System

Effective Date: March 20, 2017

Subject: Customized Training

1. Purpose:

To provide guidance on customized training provided under Title I of the Workforce Innovation and Opportunity Act (WIOA).

2. Background:

Competitively procured contracts may be used to pay for group training, in lieu of individual training accounts, when the training is otherwise approvable under federal and state law and policy, and only if the individual's rights for consumer choice are not superseded.

Customized training should be considered when available training programs or curricula do not meet the specific training requirements of employer(s).

3. Policy:

a. Customized Training Requirements

i. Customized training must be:

- A. Used to meet the special requirements of an employer or group of employers;
- B. Conducted with a commitment by the employer(s) to employ all individuals upon successful completion of the training; and
- C. Paid for, in part, by employers, who must pay a "significant cost" of the training. Local Workforce Development Boards (LWDBs) will define "significant cost."

ii. Individuals considered for customized training must meet eligibility requirements for

Adult or Dislocated Worker programs. Employed individuals may be considered for customized training under specific conditions. An employed individual being considered for customized training must:

- A. Not be earning a self-sufficient wage as determined by LWDB policy;
- B. Meet the Fair Labor Standards Act requirements for an employer-employee relationship; and
- C. Receive training that incorporates new technologies, processes, or procedures; offers skills upgrades; provides workplace literacy; or serves other appropriate purposes, as identified by the LWDB.

b. Guidelines and Considerations for Local Policy Development

LWDBs that choose to allow customized training must have a customized training policy.

- i. LWDBs must consider the following factors, at a minimum, when developing local policy:
 - A. Identify parameters for when customized training would be used, including;
 - I. The characteristics of individuals or groups of individuals to be trained, and how they would benefit;
 - II. The quality of training (e.g., industry-recognized credentials; other credentials or exams validated by industry, trade or professional associations; advancement opportunities);
 - III. The number of participants the employer plans to train or retrain;
 - IV. The wage and benefit levels of participants (before and after training); and
 - V. Occupational or industry sector trends. While indications of growth or expansion would be optimal for use of customized training, neutral or declining trends can be considered on a case-by-case basis.
 - B. Identify criteria for selection of service providers:
 - I. LWDBs may use the state's Eligible Training Provider (ETP) List to select training providers. If they wish to expand to other training providers, LWDBs must establish local criteria for determining the demonstrated effectiveness of the training provider, including:
 - a. Financial stability of the provider (e.g. how long in business, financial statement, etc.);
 - b. Performance in delivering services to hard-to-serve populations. Performance may be demonstrated by:
 - i. Program completion rates
 - ii. Skill attainment levels
 - iii. Certificates, credentials, or degrees delivered
 - iv. Placement rates in unsubsidized employment
 - v. Employment retention rates, or
 - vi. Connection of the training program to needs identified in the local plan.

C. Include criteria for approval of employers to participate in customized training:

I. The employer must:

1. Be current in unemployment insurance and workers' compensation taxes, penalties and interest or related payment plan;
2. Be in need of assistance in training future or current employees;
3. Be able to contract for customized, short-term, training services (typically less than 6-9 months); and
4. Not have laid off workers within 120 days to relocate.
5. Not have any real, implied, or apparent conflict of interest with the service (training) provider.

II. The occupation for which the training is intended must be:

1. In demand as defined by WIOA Section 3(23) and determined by ESD labor market information; or
2. In balance as determined by ESD labor market information; or
3. Declining, but there are compelling reasons (e.g., evidence of long-term viability of the employer) justifying investment in customized training.

Or,

The employer's industry sector must:

1. Have projected growth as determined by ESD labor market information; or
2. Be stable as determined by ESD labor market information; or
3. Be experiencing a declining trend, but there are compelling reasons (e.g., evidence of long-term viability of the employer) justifying investment in customized training.

D. Identify employer share of training costs:

- I. LWDBs must track and document employer cost share contributions. When determining a "significant portion of the cost of the training" the LWDB must take into account the size of the employer and such other factors the LWDB determines to be appropriate, which may include:

1. The number of employees participating in training;
2. Wage and benefit levels of those employees (before and after training);
3. Relation of the training to the competitiveness of a participant; and
4. Other employer-provided training and advancement opportunities.

II. Suggested Methodologies for Employers Located in One Area:

1. One method for determining employer share of training costs is to base it on the size of the workforce. Wages paid to the participant while in training can be included as part of the share and the share can be provided as

cash or in-kind that is fairly evaluated. An example of employer share would be:

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

2. Another method is to cap training costs. For example, per trainee allowances may be capped at \$3,000 for business employing 50 or more positions in Washington prior to training and \$6,000 for businesses employing less than 50 positions prior to training.

III. Employer Share of Training Costs for Employers Located in Multiple Areas:

The Governor has determined that a “significant portion of the costs of the training” for customized training involving an employer located in *multiple* local areas is:

1. At least 10 percent of the cost for employers with 50 or fewer employees
2. At least 25 percent of the cost for employers with 51 to 100 employees
3. At least 50 percent of the cost for employers with more than 100 employees

IV. Training Involving Employers outside Washington State:

1. LWDBs must coordinate with their out-of-state counterpart on selection of training providers. LWDBs may use either state’s ETP list to select providers, or coordinate on service provider selection using mutually agreed-upon criteria.
2. LWDBs with regional service areas that overlap the State’s boundaries must coordinate with their out-of-state counterpart on proportionate payment of costs. Share of training costs must be proportionate to each LWDB as determined through negotiations and mutual agreement, and documented in the training contract.

E. Describe how training costs will be shared if multiple employers are involved.

F. Describe how contracted training providers will be monitored and audited.

4. Definitions:

Customized training -- Training that is designed to meet the specific requirements of an employer (including a group of employers), that is conducted with a commitment by the employer to employ an individual upon successful completion of the training, and for which the employer pays a significant portion of the cost of training.

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 is determined by the Governor.

5. References:

- [WIOA Section 3\(14\) and \(23\) – Definitions](#)
- [WIOA Section 134\(c\)\(3\) – Training Services](#)
- [WIOA Section 134\(c\)\(3\)\(G\)\(ii\) - Use of Funds for Employment and Training Activities](#)
- [WIOA Section 134\(d\)\(4\)\(D\) – Non-Federal Share](#)
- [RCW 82.04.220 - Business and Occupation Tax Imposed](#)
- [Fair Labor Standards Act Section 203 - Definitions](#)
- [20 CFR 680.210 – Who may receive training services?](#)
- [20 CFR 680.320 – Under what circumstances may mechanisms other than Individual Training Accounts be used to provide training services?](#)
- [20 CFR 680.710\(c\) – What are the requirements for on-the-job training contracts for employed workers?](#)
- [20 CFR 680.760 – What is customized training?](#)
- [20 CFR 680.770 - What are the requirements for customized training for employed workers?](#)

6. Supersedes:

WIOA Title 1 Policy 5616, Customized Training

7. Website:

[Workforce Professionals Center](#)

8. Action:

LWDBs and their contractors, as well as Employment Security Regional Directors, must distribute this policy broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

9. Attachments:

None.

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