



# OC Community Resources

April 8, 2020

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**To:** WIOA Subrecipients of the Orange County Development Area

**From:** Carma Lacy  
Director of Workforce Development

**Subject:** WIOA Transitional Jobs Policy  
Information Notice No. 20-OCWDB-11

**PURPOSE:**

To provide guidance to Orange County Workforce Development Board providers regarding the provision of the Transitional Jobs (TJ) activity.

**EFFECTIVE DATE:**

This notice is effective on the date of issuance.

**REFERENCES:**

Workforce Innovation and Opportunity Act, Pub. L. 113-128

20 C.F.R. §§ 680.190, 680.195, and 683.275

USDOL, Training and Employment Guidance Letter No. 19-16, Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules, (March 1, 2017).

Fair Labor Standards Act of 1938, 52 Stat. 1060, 29 U.S.C. 201 et seq.

**BACKGROUND:**

Transitional jobs are a type of work-experience activity that is considered an Individualized Career Service. Transitional Jobs are time-limited and wage-paid work experiences that are subsidized up to 100 percent. These jobs are in the public, private, or nonprofit sectors and are only available for individuals with barriers to employment who are chronically unemployed or have an inconsistent work history, as determined by this policy and its attachments.



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Because Transitional Jobs are a type of Work Experience, the requirements delineated in the policy letter on Work Based Learning and Work Experience for Adults and Dislocated Workers, including the requirement for the local Provider to establish a worksite agreement, apply to Transitional Jobs.

However, Transitional Jobs are differentiated from other types of work experiences by the following characteristics:

1. Transitional Jobs are a paid, subsidized work experience, unlike other types of work experience that may be unpaid;
2. Transitional Jobs are meant to establish work history while demonstrating success in an employer-employee relationship and developing skills, whereas the purpose of other types of work experience may be to explore various career options or to assess the participant's employability; and
3. Transitional Jobs must be combined with the provision of comprehensive career services and supportive services, which is not mandated for other types of work experiences.

Similar to other types of work experience, neither the employer-of-record nor the host employer where the Transitional Job participant performs his or her work duties is required to employ the participant after the conclusion of the Transitional Job (however, retention, where appropriate, is preferred for the benefit of the worker and employer).

Local areas may only use up to 10 percent of adult and dislocated worker formula funds for Transitional Jobs. Also, national dislocated worker grant (NDWG) funding may be spent on Transitional Jobs in accordance with any requirements, limitations, or maximum expenditure amounts related to Transitional Jobs that apply to each such grant.

## **Definitions**

Chronically Unemployed – means an individual meets one of the following criteria:

1. Low income (as defined in Informational Notice No. 17OCDB-08 WIOA Adult and Dislocated Worker Programs – Participants Eligibility Requirements Attachment I);
2. Having a work history showing primarily minimum wage employment;
3. Currently claiming and/or having exhausted unemployment insurance (UI) benefits;
4. Is on parole or probation, or has been released from prison/jail within the 12 months prior to application;
5. Currently employed but that employment is seasonal, temporary, employment is less than 10 weeks in length;
6. An individual who is working part time but desires full time employment, or who is working in employment not commensurate with the individual's demonstrated level of educational and/or skill achievement;
7. Individuals who fall below the self-sufficiency threshold found in Self-Sufficiency Information Notice No. 20-OCDB-01

Inconsistent Work History – means an individual meets one of the following criteria:

1. Has never held a full-time job (30+ hours per week) for more than 13 consecutive weeks.
2. Has been fired from a job within the 12 months prior to application.
3. Has held more than three jobs in the 52 weeks prior to application Has been unemployed for the 13 consecutive weeks prior to application.
4. Has been unemployed for 15 or more of the 26 weeks prior to application.

Individuals with barriers – For purposes of this policy, individuals who meet one or more of the criteria listed in Attachment I to this policy letter or anyone who certifies that they have been directly impacted by the opioid crisis.

Individual with a disability: An individual who:

1. Has a physical or mental impairment that substantially limits one or more major life activities of the individual;
2. Has a record of such an impairment; or
3. Is regarded as having such an impairment.

## **Local Provider Requirements**

### **Participant Eligibility**

To be eligible for a Transitional Job, participant must:

1. Be enrolled in the WIOA Adult or Dislocated Worker Program;
2. Participated and completed an Assessment;
3. Have a completed an Individual Employment Plan (IEP);
4. Received or currently receiving Basic Career Services triggering participation in WIOA or Individualized Career services;
5. Be chronically unemployed or have an inconsistent work history as defined by this policy
6. Have a barrier to employment (listed in Attachment I)

### **Appropriate Host Employers**

Employers willing to work with participants in Transitional Job activities may be from the private for-profit sector, private non-profit sector, or the public sector. As Transitional Jobs are structured to help participants achieve success in the workplace and develop the skills needed to obtain or retain unsubsidized employment, the employer must be able to provide supervision and appropriate feedback to the participant at regular intervals during the course of the activity. Employers must be willing to participate in monthly on-site monitoring visits conducted by the Provider to evaluate the employer and the participant performance.

There is no expectation that the employer will retain the participant at the completion of the transitional job. However, if the employer is interested in hiring the participant after the Transitional Job activity has completed, and additional training is needed, an OJT may be developed that follows the area's OJT policy.

The employer of record may be the host employer, a training provider, a partner organization, the OCDB, or the OCDB designee.

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

1. The employer has any other individual on layoff from the same or substantially equivalent position;
2. The transitional job 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. Employers must also be compliant on their state and federal business taxes;
5. Other employer limitations found in delineated in the policy letters on Work Based Learning and Work Experience for Adults and Dislocated Workers.

### **Transitional Jobs Worksite Agreement.**

Transitional Jobs will require a written, signed agreement between OCDB, the host employer/employer of record, the Provider, and the Participant. That agreement will follow the guidelines in the delineated in the policy letters on Work Based Learning and Work Experience for Adults and Dislocated Workers.

### **Wages and Benefits**

Participants will be compensated at the same pay rates as similarly situated trainees or employees. All Transitional Jobs must pay at least minimum wage. Participants must also be covered either by state workers' compensation or by relevant on-site insurance. If an entity other than the OCDB or its designee is the employer of record, the entity is entitled to a reimbursement of 100% of the wages. If the OCDB, or its designee, is the employer of record, the participant's wages will be paid at 100%. The wage rate and reimbursement rate will be clearly spelled out in the worksite agreement.

### **Length of Agreement**

The length of a Transitional Job agreement will vary based upon the number of hours worked per week. If a position is full-time (meaning 30 or more hours per week), the maximum length of the agreement is 26 calendar weeks. Any part-time position (less than 30 hours) has a maximum of 52 weeks. A 26-week extension may be granted if the participant is an individual with a disability who requires more time to establish a sufficient work history and to develop employable skills.

### **Complementary Services**

Transitional Jobs must be combined with Basic Career Services triggering participation in WIOA or Individualized Career services and supportive services if needed by the participant; participants must not be enrolled in Transitional Jobs without receiving these other WIOA services. The WIOA services provided to Transitional Jobs participants may include Job Readiness.

### **Reporting**

All participants must be eligible and enrolled in WIOA (either the local adult or dislocated worker program or a discretionary grant), and any data about them that is required to be reported must be entered into the CALJOBS. Transitional Jobs participants may also be co-enrolled in other state-funded WIOA programs.

### **Monitoring**

Through the State's monitoring system and during the onsite monitoring review of the local area, the state's program and fiscal monitors will review the local area's Transitional Jobs implementation, including participant file review and testing of actual expenditures, for compliance with all applicable federal and state laws, regulations, and guidance letters (including this guidance letter). Any findings will be addressed through the State's monitoring resolution process.

### **ACTION**

Bring this policy to the attention of all affected staff and all relevant parties.

### **INQUIRIES**

If you have any questions regarding this policy, please contact your Contract Administrator at 714-480-6500.

**ATTACHMENT**

Attachment I: Transitional Jobs - Barriers to Employment

## ATTACHMENT I: WIOA Populations with Barriers to Employment

Type	Definitions
<p style="text-align: center;">Displaced homemaker</p>	<p>An individual who has been providing unpaid services to family members in the home and who:</p> <ol style="list-style-type: none"> <li>1. Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment; and who either:               <ol style="list-style-type: none"> <li>a. Has been depending on the income of another family member but is no longer supported by that income; or</li> <li>b. Is the dependent spouse of a member of the Armed Forces on active duty and whose family income is significantly reduced because of a deployment, a call or order to active duty, a permanent change of station, or the service-connected death or disability of the family member.</li> </ol> </li> </ol>
<p style="text-align: center;">Low income individual</p>	<p>An individual who:</p> <ol style="list-style-type: none"> <li>1. Receives, or in the past six months has received, or is a member of a family that is receiving or in the past six months has received, assistance through SNAP, TANF, SSI, or State or local income-based public assistance;</li> <li>2. Is in a family with total family income that does not exceed the higher of the poverty line or 70 percent of the lower living standard income level.</li> <li>3. Is a homeless individual or homeless child or youth;</li> <li>4. Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), (does not include students in school districts participating in the Community Eligibility Provision (CEP) Healthy, Hunger-Free Kids Act of 2010);</li> <li>5. Is a foster child for whom State or local government payments are made; or</li> <li>6. Is an individual with a disability whose own income meets the eligibility income requirement of clause (2) but who is a member of a family whose income does not meet this requirement.</li> </ol>
<p style="text-align: center;">Indian, Alaska Native, and Native Hawaiian</p>	<p>An individual who meets the definition of the term:</p> <ol style="list-style-type: none"> <li>1. "Indian" as defined in subsections (d), (e), and (l) of section 4 of the Indian Self- Determination and Education Assistance Act (25 U.S.C. 450b);</li> <li>2. "Alaska Native" as defined in subsections (b) and (r) of section (3) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b), (r)); or</li> <li>3. "Native Hawaiian" as defined in section 7207 of the Native Hawaiian Education Act (20 U.S.C. 7517).</li> </ol>

Type	Definition
Individual with a disability	An individual who: <ol style="list-style-type: none"> <li>1. Has a physical or mental impairment that substantially limits one or more major life activities of such individual;</li> <li>2. Has a record of such an impairment; or</li> <li>3. Is regarded as having such an impairment.</li> </ol>
Older individual	An individual who is age 55 or older.
Ex-offender	An adult or juvenile who: <ol style="list-style-type: none"> <li>1. Is or has been subject to any stage of the criminal justice process and for whom workforce services may be beneficial; or</li> <li>2. Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.</li> </ol>
Homeless individual	An individual who lacks a fixed, regular, and adequate nighttime residence including: <ol style="list-style-type: none"> <li>1. An individual who:               <ol style="list-style-type: none"> <li>a. Is sharing housing with others due to loss of housing, economic hardship, etc.;</li> <li>b. Is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;</li> <li>c. Is living in an emergency or transitional shelter;</li> <li>d. Is abandoned in a hospital; or</li> <li>e. Is awaiting foster care placement.</li> </ol> </li> <li>2. An individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or</li> <li>3. Migratory children who qualify as homeless because the children are living in circumstances listed above.</li> </ol>
Individual who is in, or has aged out of, the foster care system	An individual who: <ol style="list-style-type: none"> <li>1. Is in the foster care system;</li> <li>2. Has aged out of the foster care system;</li> <li>3. Has attained age 16 and left foster care for kinship guardianship or adoption;</li> <li>4. Is a child eligible for assistance under the John H. Chafee Foster Care Independence Program; or</li> <li>5. Is in an out-of-home placement.</li> </ol>
Individual who is an English language learner, has low levels of literacy, or faces substantial cultural barriers	An individual who: <ol style="list-style-type: none"> <li>1. Has limited ability in reading, writing, speaking, or comprehending the English language and whose native language is a language other than English or who lives in a family or community environment where a language other than English is the dominant language;</li> <li>2. Is unable to read, write or speak English at a level necessary to function on the job, or in the individual's family, or in society, or;</li> <li>3. Perceives themselves as possessing attitudes, beliefs, customs or practices that influence a way of thinking, acting, or working that may serve as a hindrance to employment.</li> </ol>

Type	Definition
Migrant or seasonal farmworker	An individual who is employed, or was employed for the last 12 months, in farmwork of a seasonal or temporary nature, including those whose agricultural labor requires travel to a job site such that they are unable to travel to a permanent place of residence in the same day.
Individual who is with two years of exhausting CALWORKS/TANF eligibility	Recipients of CALWORKS/TANF cash assistance who have received 24 months or more of their maximum 48 months of lifetime cash benefit payments.
Single or Pregnant Parent	As single, separated, divorced, or widowed individual who has primary responsibility for one or more dependent children under age 18 or a dependent with a disability (including a single pregnant woman).
Long term Unemployed Individual	An individual who is a currently unemployed individual that has been unemployed for 27 or more consecutive weeks.
An individual with a substance abuse problem	An individual that has been referred to or is being treated by an agency for a substance abuse problem.
A victim of domestic violence	An individual who has been documented as a victim of a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain control over another intimate partner.
Has serious emotional, medical, or psychological problems	An individual who has serious emotional, medical, or psychological problems that has been documented by a qualified professional.