



American Job Center

PUBLIC POLICY FOR PAYMENT OF WAGES TO ACTIVE PARTICIPANTS ON THE ACTIVITIES OF ON-THE-JOB TRAINING (OJT), CANCELED DUE TO THE COVID-19

I. INTRODUCTION

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The Governor of Puerto Rico, Hon. Wanda Vázquez Garced, promulgated Executive Order No. OE-2020-020, on March 12, 2020, whereby it decreed a state of emergency related to the impact of COVID-19. Subsequently, on March 15, she promulgated Executive Order No. OE- 2020-020 to make viable the closing of the government and private operations to battle the effects of COVID-19, of March 15 to 30, 2020. In order to extend the measures to control the risk of contagion, on May 1, through Executive Order No. OE-2020-038, it was extended until the 25th of May of 2020, including the governmental closing, among others measures.

The Local Board, in coordination with the principal elected official is responsible to make sure the appropriate

use and the administration of the funds designated for activities of youth, adults and displaced workers, as well as the One Stop Management System of the Local Area for the Labor Force Development. Pursuing this purpose, this Public Policy was promulgated to authorize Telecommuting to offer services to customers, participants, patrons, and service providers.

II. LEGAL BASIS

Executive Order No. OE-2020-020 issued by the Governor of Puerto Rico, Hon. Wanda Vazquez Garced, 12th of March of 2020,

Executive Order No. OE-2020-023 issued by the Governor of Puerto Rico, Hon. Wanda Vazquez Garced, 15th of March of 2020,

Executive Order No. OE-2020-029 issued by the Governor of Puerto Rico, Hon. Wanda Vazquez Garced, 30th of March of 2020,

Executive Order No. OE-2020-033 issued by the Governor of Puerto Rico, Hon. Wanda Vazquez Garced, 12th of April of 2020,

Executive Order No. OE-2020-038 issued by the Governor of Puerto Rico, Hon. Wanda Vazquez Garced, 12th of May of 2020,

680.700 Regulations of the Workforce Innovation and Opportunity Act (WIOA for its acronym in English).

ETA coronavirus (COVID-19) FAQs issued by the "Workforce GPS" updated the 13th and the 14th of April of 2020,


Training and Employment Guidance Letter" (TEGL) No 19-16: Guidance on Services Provided through the Adult and Dislocated Worker Program under 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, issued the first of March of 2017,

A handwritten signature in black ink, appearing to be 'JAG', is located on the left side of the page, overlapping the text of the final paragraph.

Consultation answered by Carmen E. Rodríguez, USDOL- ETA liaison officer for Puerto Rico, the 4th of May of 2020, in relation with the payment to OJT participants affected by the COVID-19.

III. GENERAL PROVISIONS

1. Career Planners will contact participants to ensure they are fit to continue their participation. It is of vital importance to make sure they are not institutionalized. They will counsel participants in relation to the disbursements to be made, their responsibility to complete the hours of training and will request the information related to their bank account to make the payment by direct deposit, if apply.
2. Career Planners or designated officials will validate with the Unemployment Insurance Fund, to ensure the participants do not have an active insurance claim due to the closure of their workplaces. If they have an active case with the Workers Unemployment Insurance program, the payment of salaries will not be authorized. The payment of wages to active participants in the Unemployment Insurance Program is not permitted and is considered a fraudulent act.
3. A cost analysis will be performed to determine the budget impact. This is needed since at the beginning the budget costs only included the percent to reimburse and did not contain the impact on marginal benefits. The corresponding documents will be prepared (Increase Allocation of Funds) and subsequently submitted to the Financial Agent for the appropriate processing. The appointed official will process the information within the Accounting System.

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4. The contract will be amended in order to establish that, due to the COVID-19 emergency, it will carry out the payment of the salaries to the participants from the 16th of March until business re-start operations and the participants are reinstated to their work area. The amount per pay will not exceed the hours authorized in the contract. The amendment to the contract will include that upon returning to the work area, the participant will complete the training hours. The already worked unpaid training hours, not authorized by this policy may be subsidized. If the hours were paid in full, the participant pending training hours will be completed, and the employer will not pay wages during that period.
 5. After evaluating the budgetary impact of the implementation of this policy, the budget can be modified, if necessary.
 6. If the employer re-starts operations, when the participant returns to the workplace the hours pending of payment not authorized by this policy, may be subsidized. If the hours were paid in full the participant will complete the training and the employer will not pay wages during that period. Support services may be granted based on needs. Support services are designed to provide the participant the necessary resources to allow his participation in the career services and training that they are unable to obtain through other programs that offer such training service. Some of these can be:
 - a. Assistance with transportation.
 - b. Assistance with day care of children and dependents.
 - c. Assistance with lodging.
 - d. Assistance with uniforms and others related items.

On those cases where the participant starts to work (at least twenty hours) and is receiving the Unemployment Insurance Program benefits, will have to report the change in their employment status to the Unemployment Insurance Program, so that they can perform the adjustments in the amount to be granted, as appropriate. Reimbursement may be made to the employer, (when there is a balance in training hours) after validating the adjustments to the amount granted to the participant, to ensure that there is no benefits duplication and therefore non permissible costs.

7. The dislocation caused by the pandemic could adversely affect the execution of the Programs. The Department of Labor (DOL) recognizes the challenges faced to comply with these measures. Given this, no determinations of sanctions based on AP19 information. DOL uses statistical models adjusted to the levels of execution at the end of the Program Year, in which it considers the characteristics of the participants served and the prevailing economic conditions. They will continue to closely monitor the effect of COVID-19 and its impact on services and the execution measures. Even so, it is our responsibility to carry out all the corresponding actions aimed at complying with the measures of execution and that the relationship between the Local Board and the employers are not adversely affected.
8. If the Company in which the participant was working does not resume operations, or the employer determines to make adjustments in the company entailing reduction in personnel, and the participant has not acquired the skills of the position, the participant will be relocate in another employment opportunity. The participant's record will establish that the person did not acquire the targeted skills since the participation was not completed, given the situation provoked by COVID-19 and that this is a second chance for its completion.
9. The participant will certify, in writing, that upon returning to work, will complete the training hours even is there are not training hours pending payment.

IV. PUBLIC POLICY

The payment of 100% of the salaries and fringe benefits, as appropriate, is authorized to the active participants in the On-the-Job Training activities(OJT) that were canceled due to the COVID- 19.This is regardless of the reimbursement authorized to the employer. To do this, you must have a signed contract with the employer and in relation to the participant, the Appointment form, prior to the closure order enacted by Executive Order No. OE-2020-023 issued by the Governor of Puerto Rico, Hon. Wanda Vazquez Garced, on March 15, 2020.

The participant will be paid for the pending payment according to what is established in the Appointment form, which must be consistent with what is established in the contract. To emit the payments, the following method will be used:

- A first disbursement of the payments that would have corresponded for the period elapsed since the 16th of March until the date on which this policy is approve.
- For subsequent payment periods, biweekly payments will be made until the end of the government shutdown and the participant returns to their place of employment or terminates the contract, whichever happen first.

To determine the hours to be paid, the hours authorized on the contract, or an average in those cases in which the employer pays fewer hours than those stipulated in the contract, this will be used as basis for such determination. If the employer of a working participant, given the COVID-19, has assigned less than the minimum of twenty (20) hours included in the contract, the employer is authorized to refund the worked hours. The participant will be paid for the hours that were not paid by the employer. This last point only applies to participants that are not receiving the benefits of the Unemployment Insurance Program. This clause will be included in the contract amendment.

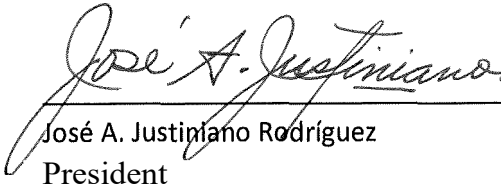
This does not apply to pending payment periods, previous to the closing order issued by the Executive Order No. OE-2020-023 enacted by the Governor of Puerto Rico, Hon. Wanda Vazquez Garcia, on March 15, 2020. To pay these invoices, the ordinary process will be used, as approved.

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v. APPROVAL AND VALIDITY

This public policy was approved by the Mayagüez-Las Marias Local Labor Development Board in a virtual meeting held on June 3, 2020. This policy will take effect immediately after its approval. It will be the responsibility of the Executive Director of the Local Board to inform the staff as soon as it is approved. It leaves without effect any other Policy, Procedure, or Communication, which in whole or in part, be incompatible with this policy, to the extent of such incompatibility.

For the record, I hereby sign this Public Policy in Mayaguez, Puerto Rico, today
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José A. Justiniano Rodríguez
President

Local Board for Labor
Development Mayagüez-
Las Marías