

PUBLIC POLICY ON WAGE PAYMENTS FOR ACTIVE PARTICIPANTS IN ON-THE-JOB TRAINING (OJT) ACTIVITIES CANCELLED DUE TO COVID-19

I. INTRODUCTION

The Governor of Puerto Rico, Hon. Wanda Vázquez Garced, issued Administrative Bulletin No. OE-2020-020 on March 12, 2020, declaring a state of emergency regarding the impact of COVID-19. Subsequently, on March 15, 2020, Administrative Bulletin No. OE-2020-023 was issued to order the closure of governmental and private sector operations to combat the spread of COVID-19 from March 15 to March 30, 2020. To extend measures controlling the risk of contagion, Administrative Bulletin No. OE-2020-038 was issued on May 1, 2020, extending government closures and other measures through May 25, 2020, inclusive.

The Local Board, in coordination with the Chief Elected Official, is responsible for ensuring the proper use and administration of funds for youth, adult, and dislocated worker activities, as well as the One-Stop Delivery System of the Local Workforce Development Area. To this end, a Public Policy was issued authorizing Telework to deliver activities to clients, participants, employers, and service providers.

II. LEGAL BASIS

- Administrative Bulletin No. OE-2020-020, issued by the Governor of Puerto Rico, Hon. Wanda Vázquez Garced, on March 12, 2020.
- Administrative Bulletin No. OE-2020-023, issued by the Governor of Puerto Rico, Hon. Wanda Vázquez Garced, on March 15, 2020.
- Administrative Bulletin No. OE-2020-029, issued by the Governor of Puerto Rico, Hon. Wanda Vázquez Garced, on March 30, 2020.
- Administrative Bulletin No. OE-2020-033, issued by the Governor of Puerto Rico, Hon. Wanda Vázquez Garced, on April 12, 2020.
- Administrative Bulletin No. OE-2020-038, issued by the Governor of Puerto Rico, Hon. Wanda Vázquez Garced, on May 12, 2020.
- Section 680.700 of the Workforce Innovation and Opportunity Act (WIOA) Regulations.
- ETA Coronavirus (COVID-19) FAQs issued via WorkforceGPS, updated on April 13 and 14, 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 on March 1, 2017.
- Official inquiry response by Carmen E. Rodríguez, Liaison Officer for Puerto Rico at USDOL-ETA, on May 4, 2020, regarding wage payments to OJT participants affected by COVID-19.

III. GENERAL PROVISIONS

1. **Career Planners** shall contact participants to confirm they are able and eligible to continue participation, ensuring they are not institutionalized. Planners will guide participants regarding payments to be issued, their obligation to complete required training hours, and request bank account details for direct deposit processing, if applicable.
2. **Career Planners** or designated officials shall verify with the Unemployment Insurance Program whether participants have active benefit cases due to workplace closures. If a participant is actively receiving Unemployment Insurance benefits, wage payments shall **not** be authorized. Issuing wage payments to participants receiving Unemployment Insurance is an unallowable cost and constitutes a fraudulent act.
3. **A cost analysis** shall be conducted to determine the budgetary impact, as initial cost calculations included only the employer reimbursement percentage without accounting for fringe benefits. Necessary documentation (Allocation of Funds Increase) will be prepared and submitted to the Fiscal Agent for standard processing. Designated staff will process accounting data in the MIP Accounting System.
4. **Contracts shall be amended** to establish that, due to the COVID-19 emergency, wage payments to participants shall be covered effective March 16, 2020, or until the employer resumes operations and participants are reinstated to their workplace. Payments shall not exceed the total hours authorized in the contract. Contract amendments must stipulate that, upon returning to the workplace, the participant will complete the required training hours. Remaining training hours unpaid under this policy may be subsidized; if training hours were paid in full during the closure, the participant shall complete the remaining training hours without additional wage payments from the employer for that period.
5. **Budget Modifications:** Following the budgetary impact assessment, overall program budgets will be modified as necessary to support policy execution.
6. **Reopening and Supportive Services:** When employers reopen and participants return to work, unpaid training hours may be subsidized as established herein. If hours were paid in full, the participant will complete training without employer wage payments during that timeframe. Supportive services may be granted to provide participants with resources necessary to enable continued participation in career and training services that cannot be obtained through other programs, including:
 - Transportation assistance;
 - Childcare and dependent care assistance;
 - Housing assistance;
 - Assistance with uniforms and related items.

Participants who return to work (at least 20 hours per week) while receiving Unemployment Insurance benefits must report their change in employment status to the Unemployment Insurance Program for benefit adjustments. Employer reimbursements for remaining training hours will only be issued after verifying that benefit adjustments were made, preventing duplication of benefits and unallowable costs.

7. **Performance Measures:** The U.S. Department of Labor (USDOL) recognizes the operational challenges caused by the pandemic. Consequently, sanction determinations will not be issued based on Program Year 2019 (PY19) performance data. USDOL applies statistical adjustment models at the close of the Program Year, taking into account participant characteristics and prevailing economic conditions. USDOL will continue monitoring the impact of COVID-19 on performance measures; nevertheless, the Local Board remains responsible for taking all necessary actions to achieve performance targets and protect Board-Employer relationships.
8. **Permanent Business Closures or Layoffs:** If an employer does not resume operations or implements staff reductions due to business restructuring before the participant acquires required job skills, the participant shall be placed in another employment opportunity. Participant files must document that required skills were not acquired due to COVID-19 disruptions, justifying a second training opportunity.

9. **Participant Certification:** Participants shall certify in writing that upon returning to work, they will complete their training hours, even if no paid training balance remains.

IV. PUBLIC POLICY

Payment of **100% of wages and applicable fringe benefits** is hereby authorized for active participants in On-the-Job Training (OJT) activities suspended or cancelled due to COVID-19, regardless of the authorized employer reimbursement percentage.

Prerequisites:

- An executed employer contract and a signed Participant Appointment Form must have been in effect prior to the government shutdown order issued via Administrative Bulletin No. OE-2020-023 on March 15, 2020.
- Payments shall cover unpaid balances specified in the Participant Appointment Form, consistent with the master contract.

Disbursement Schedule:

- **First Disbursement:** A retroactive payment covering the period from March 16, 2020, through the approval date of this policy.
- **Subsequent Disbursements:** Biweekly payments issued until government closure orders are lifted and the participant returns to work, or until the contract end date, whichever occurs first.

Calculation Basis: Hours payable shall be based on the weekly hours authorized in the contract, or on an average for contracts where employers paid fewer hours than stipulated. For active participants working reduced schedules (fewer than the minimum 20 hours per week stipulated in the contract) due to COVID-19, employer reimbursements shall be authorized for hours not paid by the employer. This provision applies solely to participants not receiving Unemployment Insurance benefits and must be incorporated into contract amendments.

Note: This policy does not apply to unpaid invoices for periods preceding the shutdown order of March 15, 2020. Prior outstanding invoices shall be processed through standard administrative procedures.

V. APPROVAL AND EFFECTIVE DATE

This policy was approved by the Mayagüez-Las Marías Local Workforce Development Board during a virtual meeting held on **June 3, 2020**. This policy shall take effect immediately upon approval. The Executive Director of the Local Board shall be responsible for notifying staff immediately upon approval. This policy supersedes any previous policy, procedure, or memorandum that is incompatible with the provisions herein, to the extent of such incompatibility.

In witness whereof, I sign this public policy in Mayagüez, Puerto Rico, on **July 17th, 2024**


JOSE A. JUSTINIANO RODRÍGUEZ
Chair, Local Workforce Development Board

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