

Adopt Emp 404, previously effective 12-26-19 (Document #12960, Interim), and expired 6-23-20, cited and to read as follows:

CHAPTER Emp 400 ADMINISTRATION

PART Emp 404 JOB TRAINING PROGRAM

Emp 404.01 Purpose. The job training program (JTP) is established to enhance public-private partnerships to recruit, train, and re-employ workers in order to meet New Hampshire's skills gap and worker shortage, by efficiently and timely assisting New Hampshire businesses and residents looking for work, including those in recovery.

Emp 404.02 Scope. These rules shall apply to any entity for which assistance from the JTP is requested under WorkInvestNH and to any individual for which assistance from the JTP is requested under WorkNowNH.

Emp 404.03 Definitions.

- (a) "Beneficiary" means an individual determined eligible and currently receiving Medicaid.
- (b) "Department" means the New Hampshire department of employment security.
- (c) "Entity" means for - profit businesses which pay contributions per RSA 282-A:69, I or governmental and non-profit organizations, who are described in section 501(c)(3) and exempt under section 501(a) of the internal revenue code, who have elected to pay contributions pursuant to RSA 282-A:69, II.
- (d) "Granite advantage health care program (granite advantage)" means the granite advantage health care program established under RSA 126-AA or any successor law.
- (e) "Grant recipient under WorkInvestNH" means the entity that receives funds from the department to reimburse it for training provided under Emp 404.
- (f) "Grant recipient under WorkNowNH" means a participant who is eligible to receive funds from the department for technical education, training, and related supports.
- (g) "Individualized employment plan" means the long term career plan created by the department and the participant in WorkNowNH.
- (h) "NH Medicaid Program" means the Title XIX and Title XXI programs administered by the department, under RSA 167:3-i, RSA 167:4, RSA 167:5, RSA 167:6, I, RSA 167:6, IV, RSA 167:6, VI, RSA 167:6, IX, and RSA 167:68 or any successor law.
- (i) "On-the-job training (OJT)" means a hands-on method of teaching the skills, knowledge, and competencies needed for employees to perform a specific job within the workplace. Employees learn in an environment where they will need to practice the knowledge and skills obtained during their training.
- (j) "Participant" means a beneficiary enrolled in granite advantage or traditional Medicaid and receiving WorkNowNH services under this part.

(k) “Program year” means the 12 month period of time that a WorkNowNH participant is enrolled in the program starting from their enrollment date.

(l) “WorkInvestNH” means the public-private partnership whereby NH provides grants to eligible entities in order to train their workers.

(m) “WorkNowNH” means a program whereby NH provides enhanced support services including child care, transportation, and tuition assistance to eligible participants who are determined in need of those services to successfully compete for employment opportunities.

(n) “WorkNowNH representative” means the department or an employee of the department.

Emp 404.04 Eligibility Requirements.

(a) Entities that may receive funds from WorkInvestNH shall be:

(1) Physically located or intending to be physically located in New Hampshire and whose employees are residents of New Hampshire or work at a business located or intending to be located in New Hampshire; and

(2) In compliance with state laws and rules.

(b) Intent by an entity to locate within the state shall be established by evidence of the following:

(1) Proof of substantial investment or a binding contractual obligation consistent with such intent; and

(2) The lease or purchase of real estate or equipment within the state necessary for the planned move.

Emp 404.05 Non-Eligible. No grant from WorkInvestNH shall be awarded to:

(a) The state, including the state university system;

(b) Any county, city, town, or other political subdivision which has not currently elected to pay contributions pursuant to RSA 282-A:71, II; or

(c) Any organization or group of organizations described in section 501(c)(3) and exempt under section 501(a) of the Internal Revenue Code, which has not currently elected to pay contributions pursuant to RSA 282-A:69, II.

Emp 404.06 Entity Match Requirement. The entity submitting an application for WorkInvestNH grant awards shall show that a minimum of 50% matching funds shall be paid by the entity towards the training.

Emp 404.07 Non-Acceptable Use of Grant Funds. WorkInvestNH grant funds shall not be used for:

(a) Salaries, wages, bonuses, and/or benefits of employees in training;

(b) Administrative or entertainment expenses;

(c) Costs resulting from violation of or failure to comply with federal, state, or local laws and regulations; and

(d) Costs or portions of costs resulting from training programs completed or started prior to the date of grant approval.

Emp 404.08 Acceptable Use of Grant Funds. WorkInvestNH grant funds shall be used for training programs including:

(a) Structured, on-site laboratory or classroom training;

(b) Basic skills;

(c) Technical skills;

(d) Quality improvement;

(e) Safety;

(f) Management and supervision;

(g) English as a second language; and

(h) Other training programs that enhance the state's workforce development.

Emp 404.09 Starting and Completion Dates.

(a) WorkInvestNH training shall begin within 3 months of the date of grant approval;

(b) The WorkInvestNH training starting date as specified on the application shall not be prior to the date of approval by the commissioner and approval of the contract.

(c) The WorkInvestNH training completion date shall be no more than 12 months from the date of grant approval.

Emp 404.10 Incomplete Applications.

(a) Applications submitted shall be reviewed by the department for completeness.

(b) If the department determines that the application is incomplete in any respect, the department shall notify the entity of the specific deficiencies and allow the entity to amend the application.

(c) Only complete applications shall be reviewed by the commissioner or designee.

Emp 404.11 WorkInvestNH Grant Application Confidentiality. All information submitted in connection with a grant application that is accepted shall be subject to disclosure except that business

financial information and proprietary information such as trade secrets, business and financial models, and forecasts and proprietary formulas may be exempt from public disclosure to the extent authorized by RSA 91-A:5, IV. Any grant applicant seeking to maintain the confidentiality of information shall mark information “confidential” and be responsible for seeking its protection.

Emp 404.12 WorkInvestNH Grant Limitations.

- (a) The minimum grant amount shall be \$750 per application.
- (b) Any single grant or multiple grants to any single employer in any grant year exceeding \$70,000 shall first be approved by governor and council.
- (c) An entity may apply for more than one grant each fiscal year.
- (d) No new application shall be approved until previous grants have been completed.

Emp 404.13 WorkInvestNH Training Evaluation Report. No application for any WorkInvestNH grant shall be considered from any entity that has not submitted a training evaluation report as required by Emp 404.23 for any previously funded training grant.

Emp 404.14 WorkInvestNH Grant Application. The entity applying for WorkInvestNH grant funds shall complete and submit the WorkInvestNH grant application form (NHES 0354 R-01/20).

Emp 404.15 Submittal. Applications shall be submitted by:

- (a) E-mail at jobtrainingfund@nhes.nh.gov;
- (b) Fax at 603-223-2047; or
- (c) Regular mail or hand delivery to:

NH Employment Security
45 South Fruit Street
Concord, NH 03301-4857
Attn: Operations/JTF

Emp 404.16 Acknowledgment of Application and Application Review.

- (a) Following receipt of a WorkInvestNH grant application, the department shall provide written notice of acknowledgment to the entity who has submitted the application.
- (b) The commissioner or designee shall review the application in accordance with the purpose of the program established in RSA 282-A:181.
- (c) An application shall be considered for funding upon satisfaction of the following:
 - (1) The entity has met the requirements necessary for eligibility pursuant to Emp 404.04;
 - (2) It is consistent with the purpose of the program as provided by RSA 282-A:181;

(3) The entity is in compliance with applicable federal and state laws, rules, and regulations including, but not limited to, laws and rules of the department, the NH department of labor, the NH department of revenue administration, and the NH secretary of state; and

(4) Sufficient funding is available.

(d) The commissioner shall make a determination regarding grant funding based on the following criteria:

(1) Whether the training program will train employees to implement new skills and/or technologies that will benefit them, the entity, and the state;

(2) Whether the training will contribute to the economic development of New Hampshire;

(3) The nature of certifications, credentials, or credit to be earned by the employees;

(4) Whether the training will create opportunities for advancement for the employees involved; and

(5) The cost of training per employee and whether it is reasonably related to the level of benefit to the employee, the entity, and the state.

(e) Each criterion shall be evaluated based on the following scale:

(1) Where no information is provided a score of 0 points shall be awarded;

(2) Where information is partially responsive to the application questions a score of 1 point shall be awarded;

(3) Answers which minimally meet priorities in light of the purpose of RSA 282-A:181 and the Job Training Program shall receive a score of 2 points;

(4) Answers which meet priorities in light of the purpose of RSA 282-A:181 and the Job Training Program shall receive a score of 3 points;

(5) Answers which exceed priorities in light of the purpose of RSA 282-A:181 and the Job Training Program shall receive a score of 4 points;

(6) Answers which exceed priorities in light of the purpose of RSA 282-A:181 and the Job Training Program and which contain innovative or other features which add value to the Job Training Program shall receive a score of 5 points;

(f) An application shall receive a minimum score of 15 points to be approved.

(g) Failure of an application to receive a minimum score of 15 points shall result in denial of an application.

(h) If further clarification is necessary after the entity has submitted all required documentation, the department shall request that the entity make a presentation of their application.

Emp 404.17 Notification.

(a) If the commissioner approves an application, the department shall notify the applicant within 7 business days of the application having been approved.

(b) If the commissioner does not approve an application, the department shall notify the applicant in writing of the specific reason(s) for the commissioner's denial.

Emp 404.18 Training Fund contract. In order to obtain the benefit of the grant, applicants shall enter into a fully executed contract with the department.

Emp 404.19 Reimbursement of Funds.

(a) Grant recipients under WorkInvestNH shall request reimbursement of training funds by completing and submitting the "WorkInvestNH TRAINING REIMBURSEMENT REQUEST" (NHES 0703 N-01/20) form.

(b) The WorkInvestNH grant recipient shall submit the "WorkInvestNH TRAINING REIMBURSEMENT REQUEST" (NHES 0703 N-01/20) form and all attachments by:

- (1) E-mail at jobtrainingfund@nhes.nh.gov;
- (2) Fax at 603-223-2047; or
- (3) Regular mail and/or hand delivery to:

NH Employment Security
45 South Fruit Street
Concord, NH 03301-4857
Attn: Operations/JTF

Emp 404.20 Time Limit for Reimbursement. All requests for reimbursement shall be submitted within 30 business days of the completion date of the training.

Emp 404.21 Grant Funds Used or Not Used. A WorkInvestNH grant recipient shall report to the department promptly upon determining that any portions of the dollars allocated for their grant will not be used.

Emp 404.22 Failure to Comply. Failure to comply with the rules governing reimbursement of funds shall result in non-reimbursement until compliance is achieved.

Emp 404.23 Training Evaluation Report.

(a) WorkInvestNH grant recipients shall evaluate training programs funded by the JTP by completing a training evaluation report survey as follows:

- (1) Providing the job training contract number;
- (2) Providing the entity's name, location and type of industry;

- (3) Providing the name of the person completing the evaluation;
- (4) Providing the amount of the job training grant;
- (5) Providing the name of the training provider (s);
- (6) Providing the name of the training course (s);
- (7) Providing the amount of the entity's original share spent by the conclusion of the training;
- (8) Providing the number of unique individuals trained during the grant period;
- (9) Providing the number of workers from each level of the entity including executive, managerial or laborer;
- (10) Describing the impact of the training on the workers' skills;
- (11) Providing the cost of training per worker trained;
- (12) Providing the number of trainees retained in employment as a direct result of the training;
- (13) Providing the number of jobs created as a direct result of the training;
- (14) Rating the overall quality of the training and providing positive or negative feedback;
- (15) Answering whether the training met the entity's needs and expectations;
- (16) Answering whether the training was customized or revised to meet the entity's needs; and
- (17) Describing the nature of certifications, credentials or credit which the workers earned as a result of the training.

(b) The training evaluation report survey shall be submitted at <https://www.surveymonkey.com/r/NHES-JTF>; and

(c) Along with submission of the final invoice, the WorkInvestNH grant recipient shall ensure that the training grant evaluation report is completed and properly reported to the department. Payment of the final invoice shall be conditioned upon receipt of the evaluation report.

Emp 404.24 Program Information. The public may obtain information regarding WorkInvestNH by contacting the department.

Emp 404.25 Participant Eligibility.

(a) To be eligible to receive WorkNowNH services, a beneficiary shall be:

- (1) Enrolled in the granite advantage health care program established under RSA 126-AA or any successor law; or

(2) Enrolled in the NH Medicaid Program.

(b) A participant whose earned income increases and causes the household income to exceed the eligibility limits contained in programs described above in Emp 404.25(a) shall continue to receive WorkNowNH for a period of 12 months.

(c) Participants in OJT employment shall continue to be eligible for unused tuition assistance under Emp 404.27(a)(1) and unused financial support under Emp 404.27(b)(2) during their program year.

(d) Participants in OJT employment shall be terminated from receiving WorkNowNH services 6 months following the end of the OJT.

Emp 404.26 Initial Assessment.

(a) A participant shall undergo an initial interview when the participant volunteers in WorkNowNH. The interview shall include an assessment of job skills, experience, and vocational interests using the occupational information network (O*NET) interest profiler or another assessment tool that measures vocational interests, job skills, experience, aptitude, and educational needs.

(b) The department shall use job skills related assessment information compiled under (a) above to create the participant's individualized employment plan.

(c) The department shall also perform barrier to employment assessments regarding the participant and shall make referrals to community agencies to provide services to mitigate such barriers to employment.

Emp 404.27 Employment Support Services. The department shall offer the following activities and services to participants:

(a) Case management, vocational assessment, career planning, and job readiness services including referral for employment support services and direct job placement consistent with a participant's individualized employment plan, as follows:

(1) Tuition assistance shall be provided for allowable education and training activities as follows:

a. Payment shall be made to the education provider, training provider or equipment vendor, if applicable, up to \$5,000 per participant in a program year. The lifetime maximum payment per participant for training shall be \$10,000;

b. Payment shall be approved only upon submission of the following information by the participant:

1. Name of the institution or business providing the training;
2. Verification of the courses the participant is taking;
3. Verification of the cost of any necessary tuition or equipment; and
4. Invoice from the education provider, training provider and or equipment provider;

c. The department shall review the submitted invoice(s) as required in (a)(1)b., above to confirm that they are consistent with the participant's individualized employment plan and the assessment results; and

- d. Once an invoice is submitted for payment the participant shall not change/drop classes unless he or she submits a notarized letter to the department explaining why he or she needs to change/drop classes.
- (2) Financial support shall be provided for books, fees, and supplies, subject to the following limitations:
 - a. No more than \$500 per participant in a program year with a lifetime maximum payment of \$1000 per participant;
 - b. Payment shall be approved to the education or training provider only upon submission of the following information:
 1. Name of the education or training provider;
 2. Verification of the courses the participant is taking;
 3. Verification of the cost of any necessary books, fees, and supplies; and
 4. Invoice from the education or training provider;
 - c. If a participant purchases their own books, fees, and supplies then reimbursement shall be approved only upon submission of the following information:
 1. Name of the education or training provider;
 2. Verification of the courses the participant is taking;
 3. Verification of the cost of any necessary books, fees, and supplies; and
 4. Presentation of itemized receipts; and
 - d. The department shall review the submitted invoices and receipts to confirm that they are consistent with the participant's individualized employment plan and the assessment results;
 - (3) Direct payment or reimbursement for child care registration fees shall be paid subject to the following limitations:
 - a. No more than \$100 per child in a program year. The lifetime maximum payment per participant for child care registration shall be \$200 per child;
 - b. Only be made for registration fees and shall not include other fees associated with the pre-payment of child care services or the holding or securing of child care slots;
 - c. Participants shall:
 1. Provide verification or an invoice from the child care provider indicating the child's name and the required child care registration fees due; or
 2. Provide receipt (s) indicating the child's name and the amount paid to the child care provider for the child care registration fee (s); and
 - d. The department shall review the submitted invoice(s), receipts, or both, to confirm that they are consistent with the participant's individualized employment plan and the assessment results;
 - (4) Transportation assistance shall be provided for transportation to and from approved activities subject to the following:
 - a. Transportation assistance shall not exceed \$160 per month with a lifetime maximum payment amount per participant of \$1,280;

b. Participants shall not receive transportation assistance for more than 3 months during a program year unless:

1. The participant is in approved training under WorkNowNH in which case they shall receive transportation for one additional month during the applicable program year; or
2. The participant is enrolled in approved WorkNowNH training during a second consecutive year in which case they shall receive 4 additional months of transportation assistance;

c. Participants shall provide the following information to the department for transportation assistance:

1. Mileage to and from the approved WorkNowNH activity; or
2. Verification of the actual cost of transportation to and from the approved WorkNowNH activity and

d. Transportation assistance shall be paid as follows:

1. Participants who are identified as having a transportation barrier shall be provided with a one-time bus pass by the department to the extent such transportation service is available;
2. Participants shall be reimbursed for the actual cost of transportation to and from the approved WorkNowNH activity for the number of miles traveled multiplied by \$0.30; and
3. Participants shall be reimbursed for rides verified by receipt and purchased from a registered common carrier such as:
 - (i) A registered transportation network company, taxi or bus; or
 - (ii) A public for hire transportation agency under contract with the New Hampshire Department of Transportation or the United States Department of Transportation; and

(5) The department shall refer WorkNowNH participants to education and training providers including:

- a. The New Hampshire community college system for training and apprenticeship opportunities;
- b. The department of business and economic affairs for available training funds and support services;
- c. The department of education for education and employment programs for youth;
- d. The department of education for adult basic education, high school equivalency diploma program and English as a second language;
- e. Driver's Education providers; and
- f. Other available post-secondary educational programs, training programs, and apprenticeship programs.

Emp 404.28 On-the-job Training.

(a) The department shall make referrals to participants for OJT opportunities with employers who are deemed to be in high need areas.

(b) The department shall reimburse employers for training provided to participants in an OJT as follows:

- (1) Employers who hire and retain participants shall receive an OJT payment for the specified training period, not to exceed 6 months;
- (2) Each OJT payment shall equal 50 percent of the documented and confirmed gross wage paid by the employer to the participant for the training period up to a maximum of \$5,000;
- (3) Employers shall invoice the department monthly with the final invoice received within 30 days after completion of the OJT;
- (4) The department shall pay the OJT payment within 30 days of receipt of the correct invoice and a completed evaluation. No payment shall be processed until the completed evaluation is received; and
- (5) The department shall review the submitted invoice(s) and evaluations to confirm that they are consistent with the participant's individualized employment plan and the assessment results.

Emp 404.29 Termination from WorkNowNH. In the event of a determination of fraud committed by a party in the program, funding and services shall be terminated and such party shall be ineligible for future participation and subject to either prosecution pursuant to RSA 282-A:161 or required to make restitution pursuant to RSA 282-A:164.

APPENDIX

Rule	Specific State or Federal Statute the Rule Implements
Emp 404	282-A:181,1