



Employment Training Panel

Memorandum

To: ETP Policy Committee
Gretchen Newsom, Chairperson
Janice Roberts, Member
Rick Smiles, Member

Date: October 6,
2022

CC: Executive Staff
Reg Javier, Executive Director
Peter Cooper, Assistant Director
Jaime Gutierrez, Chief Deputy Director

From: Michael Cable, General Counsel

Subject: ETP Policy Committee Meeting Agenda Item 4.a.
Discussion Regarding Productive Lab

I. Brief Issue Statement:

Productive Lab (PL) is a delivery method for ETP training where trainers supervise trainees in a hands-on, “on-the-job”, productive setting – meaning, training that occurs on the job using actual tools and materials that will be used once the employees are fully trained. Typically, any products created during the PL training can be used for the company’s profit, rather than solely being used as a training exercise. Panel has been seeing a large increase in the amount of PL training in ETP contracts lately, and has asked for this policy to be reviewed, with perhaps a lower reimbursement rate, additional justifications, or cap on PL hours being applied moving forward.

II. Background Information:

Prior to 2010, ETP had a different training delivery method called “Structured On-Site Training”, or SOST. A CSU Northridge study in 2000 showed that in many cases, contractors were claiming reimbursement for training under SOST while trainees were actually only performing their job duties. A moratorium was placed on SOST training in 2003.

In 2010, the current Regulations (4400y) for Productive Lab training were approved. These state that, for Productive Lab training:

- A trainer must be present;
- The trainer must be solely engaged in training;
- Attendance must be documented;
- Training must be available to ETP staff for observation;

- "Laboratory training" is hands-on instruction or skill acquisition under the constant and direct guidance of a qualified trainer. Laboratory training may require the use of specialized equipment or facilities. Laboratory training may be conducted in a simulated work setting, or at a productive work setting;
- Productive Lab training is reimbursable at the class/lab rate on a case-by-case basis with good cause shown;
- Productive Lab training can be used for retrainees or for new hires;
- Productive Lab training has a 1:10 trainer:trainee ratio.

In 2011, Panel adopted the Productive Lab Guidelines, which outlined the industries and training types most suitable to Productive Lab training (without requiring PL training to occur in only those industries), and which also:

- Placed a cap on Productive Lab training hours (which changed multiple times in intervening years – currently, there is no cap outside of the overall 200 hour cap. However, if the contractor is requesting more than 60 hours of training, an additional justification must be provided);
- Enforced a trainer:trainee ratio of 1:1, with up to 1:3 being allowed with justification;
- Disallowed PL training for New Hires;
- Developed a Productive Lab justification questionnaire (the Productive Lab Worksheet), which required contractors to provide justification for their need to use Productive Lab training, including information on trainer qualifications, trainee population to attend PL training, how training will differ from actual work, training equipment, etc. The current PL Worksheet/Justification Questionnaire questions, as well as additional questions recommended to be included in the PL Justification, are listed at the end of this document, in the addendum section.

Items to consider:

- Since justifications are required for PL training, as per the Regulations and the current version of the Productive Lab Guidelines - what does Panel consider to be 'good cause shown' when justifying PL training? Do we want to again ask any of the additional justification questions we used to ask, or develop additional justification questions? (See end of document).
- Do we want to revisit things like the trainer:trainee ratio, maximum number of PL training hours, or reimbursement rates? Or perhaps cap PL training as a percentage of the contract value? (Please note: if we make any deviations from the Regulations on these items, the adjustments will need to be included in a Regulatory change package in the future).
- Do we want to think about things like the # of trainees receiving PL training (given the low trainer:trainee ratio – if they have 300 trainees, they could need dozens of trainers, depending on the length of the training)? This could be a liability issue for contractors

that they may not truly be aware of that can negatively affect their contract performance.

- Do we want to reinstate the tasks/competencies checklist? This document gave information about each PL course in the curriculum, including things like course titles, number of hours of training required, and a listing of tasks that must be completed and/or competencies that must be obtained in order to be considered to have effectively learned the skills required for that particular course. This could be a way to limit PL hours as well, capping at the number of hours needed to attain competency.
- Do we want to place a moratorium on PL training?
- Could we consider all PL training to be a part of the employer's in-kind contribution, tracking hours for that purpose, rather than having PL training be part of the actual contract value? This could prove logistically cumbersome.
- Productive Lab training is sometimes mandated federally for certain types of equipment and/or occupations. We could consider not allowing this mandated training to be part of the ETP contracts for PL training.
- Perhaps we can simply abide by the Regulatory requirements for PL training, and eliminate the PL Guidelines, while increasing the justifications required for PL training (as is already allowable under the Regulations). In other words, just stick to the Regulations, which are very clearly worded, and leave the decision making on the PL component of any given contract to the Panel, as the Regulations allow.
- Perhaps we can limit PL training to first-time contractors/employers only.

III. Recommendation

No action items beyond soliciting and receiving any feedback from the Policy Committee, contractors, stakeholders, and the public concerning the productive lab guidelines and any possible policy changes that may be desired in this area.

IV. Addendum

Productive Lab Worksheet/Justification Questions Currently in Cal-E-Force:

- 1) Provide course titles to be taught via PL for all training types;
- 2) Explain the need for PL training;
- 3) Describe equipment/processes to be used in delivering PL training;
- 4) What is the PL minimum class ratio trainer to trainees when more than one class;
- 5) What is the PL maximum class ratio trainer to trainees when more than one class;

- 6) What is the maximum number of PL training hours per a trainee may receive;
- 7) PL justification max training hours;
- 8) Location of PL training;
- 9) Explain how production will be affected during training;
- 10) Describe trainer qualifications;
- 11) Describe the method you will use to determine if expected outcome/goals are met.

Additional Justification Questions Previously Used by ETP

- 1) Is the company investing in new equipment, new facilities, or new production systems?
- 2) Is the business expanding or otherwise finding a need to hire?
- 3) Are there industry requirements (ie: FDA requirements) for PL training?
- 4) Is the project a critical proposal?
- 5) Explain why class/lab is not sufficient.
- 6) How will training differ from actual work?
- 7) How many employees are normally assigned to the PL area/equipment?
- 8) How does the company assess employee skills/need for training?
- 9) Occupations to be trained in PL?
- 10) # of PL trainees?
- 11) Description of training assignments – including training types and course titles, and a list of tasks/competencies with # of hours required for each.