

State of Rhode Island
Department of Labor and Training

State Apprenticeship Equal Employment
Opportunity Plan

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RHODE ISLAND STATE PLAN

ADOPTING AND IMPLEMENTING 29 CFR PART 30

EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING

PURPOSE

This plan sets forth policies and procedures to promote equality of opportunity in Apprenticeship Programs registered with the Rhode Island Department of Labor and Training. These policies and procedures apply to the recruitment and selection of apprentices, and to all conditions of employment and training during apprenticeship; and the procedures established provide for review of apprenticeship programs, for registering apprenticeship programs, for processing complaints, and for deregistering non-complying apprenticeship programs. The purpose of this plan is to promote equality of opportunity in apprenticeship by prohibiting discrimination based on race, color, sex, sexual orientation, gender identity or expression, religion, national origin, age, those with disabilities or any other protected status in apprenticeship programs, by requiring affirmative action to provide equal opportunity in such apprenticeship programs, and by coordinating this plan with other equal opportunity programs.

Sec. 1. Definitions

- A. “Council” means the Rhode Island Apprenticeship Council
- B. “State Apprenticeship Program” means a program registered with the Rhode Island Department of Labor and Training and evidenced by a “Certificate of Registration” or other appropriate document as meeting with the apprenticeship standards of the Department.
- C. “Employer” means any person or organization employing an apprentice whether or not the apprentice is enrolled with such person or organization or with some other person or organization.
- D. “Sponsor” means any person or organization operating a State apprenticeship program, irrespective of whether such person or organization is an employer.
- E. “Department” means the Rhode Island Department of Labor and Training, which is recognized by the United States Department of Labor as the appropriate agency for registration of programs for Federal purposes.
- F. “Director” means the Director of the Rhode Island Department of Labor and Training, or any person specifically designated by the Director.

Sec. 2. Authority

The authority for the implementation and adoption of these policies and procedures affecting the registration of the Apprenticeship and Training Program with the Rhode Island Department of Labor and Training is vested in the Director of Labor, under authority of Chapter 45, Title 28, of the Rhode Island General Laws of 1956 as amended, entitled “Labor and Labor Relations” and applicable statutes and regulations, and enabling legislation establishing a State Apprenticeship Council.

Sec. 3. Equal Opportunity Standards

A. Obligations of sponsors

Each sponsor of an apprenticeship program shall:

- (1) Recruit, select, employ, and train apprentices during their apprenticeship, prohibiting discrimination based on race, color, sex, sexual orientation, gender identity or expression, religion, national origin, age, those with disabilities or any other protected status.
- (2) Uniformly apply rules and regulations concerning apprentices, including but not limited to, equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, imposition of penalties or other disciplinary action, and all other aspects of the apprenticeship program administration by the program sponsor.
- (3) Take affirmative action to provide equal opportunity in apprenticeship, including adoption of an affirmative action plan as required by this State Plan.

Program with fewer than five apprentices:

A sponsor of a program in which fewer than five apprentices are indentured shall not be required to adopt an affirmative action plan under Section 4 or a selection procedure under Section 5, provided that said program was not adopted to circumvent the requirements of this plan.

B. Equal Opportunity Pledge

Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge:

“The recruitment, selection, employment, and training of apprentices during their apprenticeship, shall be without discrimination based on race, color, sex, sexual orientation, gender identity or expression, religion, national origin, age, those with disabilities or any other protected status. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, Part 30, and the Rhode Island State Plan.”

C. Programs presently registered

Each sponsor of a program registered with the Department shall take the following action

- (1) Include in the standards of its apprenticeship program the equal opportunity pledge prescribed by paragraph B. of this section.
- (2) Adopt an affirmative action plan required by Section 4.
- (3) Adopt a selection procedure required by Section 5. A sponsor adopting a selection method under Section 5 (b) (1) (2) or (3) shall prepare and have available for submission upon request, copies of its amended standards, affirmative action plans, and selection procedure. A sponsor adopting a selection method under Section 5 (b) (4) shall submit to the Department copies of its standards, affirmative action plan and selection procedure in accordance with the requirements of Section 5 (b) (4) (1) (a).

D. Sponsors seeking new registration

A sponsor of a program seeking new registration with the Department shall submit copies of its proposed standards; affirmative action plan, selection procedures, and such other information as may be required. The program shall be registered if such standards, affirmative action plan, and selection procedure meet the requirements of this plan.

E. Programs subject to approved equal employment opportunity plans

A sponsor shall not be required to adopt an affirmative action plan under Section 4 or a selection procedure under Section 5 if it submits to the Rhode Island Department of Labor and Training satisfactory evidence that it is subject to an equal employment opportunity program providing for the selection of apprenticeship and for affirmative action in apprenticeship which has been approved as meeting the requirements of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.) and its

implementing regulations or published in Title 29 of the Code of Federal Regulations, Chapter XIV or Executive Order 11246, as amended, and its implementing regulations at Title 41 of the Code of Federal Regulations, Chapter 60, provided that the goals and timetables for minorities and women for the selection of apprentices provides for equal to or greater than the goals required under this plan.

Sec. 4. Affirmative Action Plans

A. Adoption of affirmative action plans

A sponsor's commitment to equal opportunity in recruitment, selection, employment, and training of apprentices shall include the adopting of a written affirmative action plan.

B. Definition of affirmative action

Affirmative action is not mere passive nondiscrimination. It includes procedures, methods, and programs for the identification, positive recruitment, training, and motivation of present and potential minority and female (minority and non-minority) apprentices including the establishment of goals and timetables. It is action which will equalize opportunity in apprenticeship so as to allow full utilization of the work potential of minorities and women. The overall result to be sought is equal opportunity in apprenticeship for all individuals participating in or seeking entrance to Rhode Island's labor force.

C. Outreach and positive recruitment

An acceptable affirmative action plan must also include adequate provision for outreach and positive recruitment that would reasonably be expected to increase minority and female participation in apprenticeship by expanding the opportunity of minority and female persons to become eligible for apprenticeship selection. In order to achieve these objectives, sponsors shall undertake activities such as those listed below. It is not contemplated that each sponsor necessarily will include all of the listed activities in its affirmative action program. The scope of the affirmative action program will depend on all the circumstances including the size and type of the

program and its resources. However, the sponsor will be required to undertake a significant number of appropriate activities in order to enable it to meet its obligations under this part. The affirmative action plan shall set forth the specific steps the sponsor intends to take in the areas listed below.

- (1) Dissemination of information concerning the nature of apprenticeship, requirements for admission to apprenticeship, availability of apprenticeship opportunities, sources of apprenticeship applicants, and the equal opportunity policy of the sponsor

For programs accepting applications only at specified intervals, such information shall be disseminated at least 30 days in advance of the earliest date for application at each interval. For programs customarily receiving applications throughout the year, such information shall be regularly disseminated but not less than semi-annually. Such information shall be given to the Department of Labor and Training, the Council, the U.S. Department of Labor, local schools, employment service offices, women's centers, outreach programs and community organizations which can effectively reach minorities and women, and shall be published in newspapers which are circulated in the minority community and among women, as well as in the general areas in which the program sponsor operates.

- (2) Participate in annual workshops conducted by employment service agencies for the purpose of familiarizing school, employment service and other appropriate personnel with the apprenticeship system and current opportunities therein.
- (3) Cooperation with local school boards and vocational education systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.
- (4) Internal communication of the sponsor's equal opportunity policy in such a manner as to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under this plan.
- (5) Engaging in programs such as outreach for the positive recruitment and preparation of potential applicants for apprenticeships; where appropriate and feasible, such programs

shall provide for pre-testing experience and training. If no such programs are in existence, the sponsor shall seek to initiate these programs, or, when available to obtain financial assistance from the U.S. Department of Labor. In initiating and conducting these programs, the sponsor may be required to work with other sponsor and appropriate community organizations. The sponsor shall also initiate programs to prepare women and encourage women to enter traditionally male programs.

- (6) To encourage the establishment and utilization of programs of pre-apprenticeship, preparatory trade training, or others designated to afford related work experience or to prepare candidates for apprenticeship, a sponsor shall make appropriate provision in its affirmative action plan to assure that those who complete such programs are afforded full and equal opportunity for admission into the apprenticeship program.
- (7) Utilization of journeymen to assist in the implementation of the sponsor's affirmative action program.
- (8) Granting advance stranding of credit on the basis of previously acquired experience, training, skills, or aptitude for all applicants equally.
- (9) Admitting to apprenticeship persons whose age exceeds the maximum age for admission to the program, where such action is necessary to assist the sponsor in achieving its affirmative action obligations.
- (10) Such other action as to ensure that the recruitment, selection, employment, and training of apprentices during apprenticeship, shall be without discrimination because of race, color, religion, national origin, or sex; such as: General publications of apprenticeship opportunities and advantages in advertisements, industry reports, articles, etc.; use of present minority apprentices and journeymen as recruiters; career counseling; periodic auditing of affirmative action programs and activities; and development of reasonable procedures between the sponsor and employers of apprentices to insure that equal employment opportunity is being granted including reporting systems, on site reviews, briefing sessions, etc.
- (11) The affirmative action program shall set forth the specific steps the sponsor intends to take in the above areas under this paragraph (c). Whenever special circumstances

warrant, the Department of Labor and Training may provide other assistance as it deems necessary to implement the above requirements.

D. Goals and Timetables

- (1) A sponsor adopting a selection method under Section 5 (b), (1) or (2) which determines on the basis of the analysis described in paragraph (e) of this section (4) that it has deficiencies in terms of underutilization of minorities and/or women (minority and non-minority) in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the admission of minority and /or female (minority and nonminority) applicants into the eligibility pool.
- (2) A sponsor adopting a selection method under Section 5 (b) (3) or (4) which determines on the basis of the analysis described in the paragraph (e) of this section that it has deficiencies in terms of the underutilization of minorities and/or females (minority and non-minority) in the craft or crafts represented by the programs shall include its affirmative action plan percentage goals and timetables for the selection of minority and/or female (minority and nonminority) applicants for the apprenticeship program.
- (3) “Underutilization” as used in this paragraph refers to the situation where there are fewer minorities and/or women (minority and non-minority) in the particular craft or crafts represented by the program than would reasonably be expected in view of an analysis of the specific factors in subparagraph (1) through (5) in paragraph (e) of this section (4). Where, on the basis of the analysis, the sponsor determines that it has no deficiencies, no goals and timetables are established, the affirmative action plan shall include a detailed explanation why no goals and timetables have been established.
- (4) Where the sponsor fails to submit goals and timetables as part of its affirmative action plan or submits goals and timetables which are unacceptable, and the Department determines that the sponsor has deficiencies in terms of underutilization of minorities and/or women (minority and non-minority) within the meaning of this section, the Department shall establish goals and timetables applicable to the sponsor for the admission of minority and female (minority and nonminority) applicants into the eligibility pool or selection of apprentices, as appropriate. The sponsor shall make good faith

efforts to attain these goals and timetables in accordance with the requirements of this section.

E. Analysis to Determine if Deficiencies Exist

The sponsor's determination as to whether goals and timetables shall be established, shall be based on an analysis of at least the following factors, which analysis shall be set forth in writing as part of the affirmative action plan.

1. The size of the working age minority and female (minority and non-minority) population in the program sponsor's labor market area.
2. The size of the minority and female (minority and non-minority) labor force in the program sponsor's labor market area.
3. The percentage of minority and female (minority and non-minority) participation as apprentices in the particular craft as compared with the percentage of minorities and women (minority and non-minority) in the labor force in the program sponsor's labor market area.
4. The percentage of minority and female (minority and non-minority) participation as journeypersons employed by the employer or employers participating in the program as compared with the percentage of minorities and women (minority and non-minority) in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices; and
5. The general availability of minorities & women (minority and non-minority) with present or potential capacity for apprenticeship in the program sponsor's labor market area.

F. Establishment and Attainment of Goals and Timetables

The goals and timetables shall be established on the basis of the sponsor's analysis of its underutilization of minorities and women and its entire affirmative action program. A

single goal for minorities and a separate single goal for women are acceptable unless a particular group is employed in a substantially disparate manner in which case separate goals shall be established for such group. Such separate goals would be required, for example, if a specific minority group of women were underutilized even though the sponsor had achieved its standards for women generally. In establishing the goals, the sponsor should consider the results which could be reasonably expected from its good faith efforts to make its overall affirmative action program work.

Compliance with these requirements shall be determined by whether the sponsor has met its goals within its timetables, or failing that, whether it has made good faith efforts to meet its goals and timetables. Its good faith efforts shall be judged by whether it is following its affirmative action program and attempting to make it work, including evaluation and changes in its program where necessary to obtain the maximum effectiveness toward the attainment of its goals.

G. Data and information

The State Director of Labor and Training or a person or agency designated by them, shall make available to program sponsors data and information on minority and female (minority and nonminority) labor force characteristics for each Standards Metropolitan Statistical Area, and for other special areas as appropriate.

Sec. 5 Selection of Apprentices

A. Obligations of sponsors

In addition to the development of a written affirmative action plan to ensure that minorities & women (minority and non-minority) have an equal opportunity for selection as apprentices and otherwise ensure the prompt achievement of full and equal opportunity in apprenticeship, each sponsor shall further provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in the following subparagraphs (1) through (4) of paragraph (b) of this section (5).

B. Selection methods

The sponsor shall adopt one of the following methods for selecting apprentices:

(1) Selection on basis of rank from pool of eligible applicants

(i) Selection

A sponsor may select apprentices from a pool of eligible applicants created in accordance with the requirements of subdivision (iii) of this subparagraph on the basis of the rank order of scores of applicants on one or more qualification standards, where there is a significant statistical and practical relationship between rank order of scores and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in Guidelines on Employee Selection Procedures published at 41 CFR Part 60-3.

(ii) Requirements

The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivisions (iii) through (vii) of this subparagraph.

(iii) Creation of pool of eligibles

A pool of eligibles shall be created from applicants who meet the qualifications of minimum legal working age; or from applicants who meet qualification standards in addition to minimum legal working age: Provided that any additional qualification standards conform to the following requirements:

(a) **Qualification standards**

The qualification standards, and the procedures for determining such qualification standards, shall be stated in detail and shall provide criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The score required under each qualification standard for admission to the pool shall also be specified. All qualification standards, and the score required on any standard for admission to the pool, shall be directly related to job performance, as shown by a significant statistical relationship between the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationship,

the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. Qualifications shall be considered as separately required so that the failure of an applicant to attain the specified score under a single qualification standard shall disqualify the applicant from admission to the pool.

(b) **Aptitude Tests**

Any qualification standard for admission to the pool consisting of aptitude test scores shall be directly related to job performance, as shown by significant statistical and practical relationships between the score on the aptitude tests, required for admission to the pool, and performance in the apprenticeship program. In determining such relationships, the sponsor shall follow the procedures set forth in 41 CFR Part 60-3. The requirements of this section {4 (b)} shall also be applicable to aptitude tests utilized by a program sponsor which are administered by a State employment service agency, a private employment agency or any other person, agency, or organization engaged in the selection or evaluation of personnel. A national test developed and administered by national joint apprenticeship committee must be approved by the U.S. Department of Labor and must meet the requirements of 41 CFR 60-3.

(c) **Educational Attainments**

All educational attainments or achievements as qualifications for admission to the pool shall be directly related to job performance, as shown by a significant statistical and practical relationship between the score required for admission to the pool and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall meet the requirements of 41 CFR Part 60-3. School records or the results of general education development tests recognized by the State or local public instruction authority shall be evidence of educational achievement. Education requirement shall be applied uniformly to all applicants.

(iv) **Oral interviews**

Oral interviews shall not be used as a qualification standard for admission into an eligibility pool. However, once an applicant is placed in the eligibility pool, and before he is selected for apprenticeship from the pool, he may be required to submit to an oral interview. Oral

interviews shall be limited only to such objective questions as may be required to determine the fitness of applicants to enter the apprenticeship program, but shall not include questions relating to qualifications previously determined in gaining entrance to the eligibility pool. When an oral interview is used, each interviewer shall record his questions, the general nature of answers, and shall prepare a summary of any conclusions. Applicants rejected from the pool of eligibles on the basis of an oral interview shall be given a written statement of such rejection, the reasons therefore, and the appeal rights available to the applicant.

(v) **Notification to applicants**

All applicants who meet the requirements for admission shall be notified and placed in the eligibility pool. The program sponsor shall give each rejected applicant notice of his rejection including the reasons for his rejection, the requirements for admission to the pool of eligibles, and the appeal rights available to the applicant.

(vi) **Goals and timetables**

The sponsor shall establish where required by Section 4 (d), percentage goals and timetables for the admission of minorities and women (minority and non-minority) into the pool of eligibles in accordance with Section 4 (d), (e), and (f).

(vii) **Compliance**

A sponsor shall be deemed to be in compliance with its commitments under subdivision (vi) of this subparagraph if it meets its goals or timetables or if it makes a good faith effort to meet these goals and timetables. In the event of the failure of the sponsor to meet its goals and timetables, it shall be given an opportunity to demonstrate that it has made every "good faith effort" to meet its commitments {see section 4 (f)}. All the actions of the sponsor shall be reviewed and evaluated in determining whether such good faith efforts have been made.

(2) **Random selection from pool of eligible applicants**

(i) **Selection**

A sponsor may select apprentices from a pool of eligible applicants on a random basis. The method of random selection is subject to approval by the Department. Supervision of the random selection process shall be by an impartial person or persons selected by the sponsor, but not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected, shall be announced. The place of the selection shall be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.

(ii) **Requirements**

The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivisions (iii) through (v) of subparagraph (1) of this paragraph relating to the creation of the pool of eligibles, oral interviews, and notification of applicants.

(iii) **Goals and timetables**

The sponsor shall establish, where required by Section 4 (d), percentage goals and timetables for the admission of minorities and women (minority and non-minority) into the pool of eligibles in accordance with the provisions of Section 4 (d), (e), and (f).

(iv) **Compliance**

Determination as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b).

(3) **Selection from pool of current employees**

(i) **Selection**

A sponsor may select apprentices from an eligibility pool of the workers already employed by the program sponsor in a manner prescribed by a collective bargaining agreement where such exists, or by the sponsor's established promotion policy. The sponsor adopting this method of selecting apprentices shall establish goals and timetables for the selection of minority and female apprentices, unless the sponsor concludes in accordance with the provisions of Section 4 (d), (e) and (f) that it does not have deficiencies in terms of underutilization of minorities and/or women (minority and non-minority) in the apprenticeship of journeymen crafts represented by the program.

(ii) **Compliance**

Determination as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b).

(4) **Alternative selection methods**

(i) **Selection**

A sponsor may select apprentices by means of any other method, including its present selection method, provided that the sponsor meets the following requirements:

(a) **Selection method and goals and timetables**

Within 90 days of the effective date of this amendment, the sponsor shall complete development of the revised selection method it proposes to use along with the rest of its written affirmative action program including, where required by Section 4 (d), its percentage goals and timetables for the selection of minority and/or female (minority and non-minority) applicants for apprenticeship and its written analysis, upon which such goals and timetables, or lack thereof, are based. The establishment of goals and timetables shall be in accordance with the provisions

of Section 4 (d), (e), and (f). The sponsor may not implement any such selection method until the Department has approved the selection method as meeting the requirements of item (b) of this subdivision and has approved the remainder of its affirmative action program including its goals and timetables. If the Department of Labor and Training fails to act upon the selection method and the affirmative action program within 30 days of its submission, the sponsor then may implement the selection method.

(b) **Qualification standards**

Apprentices shall be selected on the basis of objectives and specific qualification standards. Examples of such standards as fair aptitude tests, school diplomas, age requirements, occupationally essential physical requirements, fair interviews, school grades, and work experience. Where interviews are used, adequate records shall be kept including a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition, and willingness to accept direction which are part of the total judgment. In applying any such standards, the sponsor shall meet the requirements of 41 CFR Part 60-3.

(ii) **Compliance**

Determination as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b). Where a sponsor, despite its good faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action program to the extent necessary to obtain maximum effectiveness toward the attainment of its goals. The sponsor may also be required to develop

and adopt an alternate selection method including a method prescribed by the Department of Labor and Training where it is determined that the failure of the sponsor to meet its goals is attributable in substantial part to the selection method. Where the sponsor's failure to meet its goals is attributable in substantial part to its use of a qualification standard which has adversely affected the opportunities of minorities and women (minority and/or non-minority) for apprenticeship, the sponsor may be required to demonstrate that such qualification standard is directly related to job performance, in accordance with the provisions of subparagraph (1) (iii) (a) of this paragraph.

Sec. 6 Existing Lists of Eligibles and Public Notice

A sponsor adopting a selection method under Section 5 (b) (1) or (2), and a sponsor adopting a selection method under Section 5 (b) (4) who determines that there are fewer minorities and/or women (minority and nonminority) on its existing lists of eligibles than would reasonably be expected in view of the analysis described in Section 4 (e) shall discard all existing eligibility lists upon adoption of the selection methods required by this plan. New eligibility pools shall be established and lists of eligibility pools shall be posted at the sponsor's place of business. Sponsors shall establish a reasonable period of not less than two (2) weeks for accepting applications for admission to an apprenticeship program. There shall be at least 30 days of public notice in advance of the earliest date for application for admission to the apprenticeship program {see Section 4 (c) on affirmative action with respect to dissemination of information}.

Applicants who have been placed in a pool of eligibles shall be retained on lists of eligibles subject to selection for a period of two years. Applicants may be removed from the list at an earlier date by their request or following their failure to respond to an apprentice job opportunity given by registered return receipt mail notice.

Applicants who have been accepted in the program shall be afforded a reasonable period of time in light of the customs and practices of the industry

for reporting for work. All applicants shall be treated equally in determining such period of time. It shall be the responsibility of the applicant to keep the sponsor informed of his current mailing address. A sponsor may restore to the list of eligibles an applicant who has been removed from the list at his request or who has failed to respond to an apprenticeship job opportunity.

Sec. 7 Records and Reports

(a) Obligations of sponsors

Each sponsor shall keep adequate records including a summary of the qualifications of each applicant, the basis for evaluation and for selection or rejection of each applicant, the record pertaining to interviews of applicants, the original application for each applicant, information relative to the operation of the apprenticeship program, including but not limited to job assignment, promotion, demotion, layoff, or termination, rates of pay, or other forms of compensation or conditions of work, and any other records pertinent to a determination of compliance with these regulations, as may be required. The records pertaining to individual applicants, whether selected or rejected, shall be maintained in such manner as to permit identification of minority and female (minority & non-minority) participants.

(b) Affirmative action plans

Each sponsor must retain a statement of its affirmative action plan required by Section 4 for the prompt achievement of full and equal opportunity in apprenticeship, including all data and analysis made pursuant to the requirements of Section 4. Sponsors shall periodically review their affirmative action plan and update it where necessary, including the goals and timetables.

(c) Qualification standards

Each sponsor must maintain evidence that its qualification standards have been validated in accordance with the requirements set forth in Section 5 (b).

(d) **Maintenance of records by sponsors**

The records required by this plan and any other information relevant to compliance with these regulations shall be maintained for five years and made available upon request to the Department , the U.S. Department of Labor, or other authorized representative.

(e) **Records of the State Apprenticeship Council**

The Department of Labor and Training shall keep adequate records, including registration requirements, approved individual program standards, registration actions, deregistration actions, program compliance reviews and investigations, individual program ethnic count, total apprenticeship ethnic count and any other records pertinent to a determination of compliance with this plan as may be required by the U.S. Department of Labor, and shall report such to the U.S. Department of Labor, through the Office of the State Director of the Office of Apprenticeship, U.S. Department of Labor, semi-annually.

Sec. 8 Compliance Reviews

- (a) The Department of Labor and Training will regularly conduct systematic review of apprenticeship programs in order to determine the extent to which sponsors are complying with these regulations and will also conduct compliance reviews when circumstances, including receipt of complaints not referred to a private review body pursuant to Section 11 (b) (1) (i), so warrant, and take appropriate action regarding programs which are not in compliance with requirements of this plan. Compliance reviews will consist of comprehensive analysis and evaluations of each aspect of the apprenticeship program, including on-site investigations and audits.

(b) **Re-registration**

Sponsors seeking re-registration shall be subject to a compliance review as described in paragraph (a) of this section as part of the registration process.

(c) **New Registrations**

Sponsors seeking new registration shall be subject to a compliance review as described in paragraph (a) of this section as part of the registration process.

(d) **Voluntary Compliance**

Where the compliance review indicates that the sponsor is not operating in accordance with this plan, the Department of Labor and Training shall notify the sponsor in writing of the results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions under Section 13. In the case of sponsors seeking new registration, the Department of Labor and Training will provide appropriate recommendations to the sponsor to enable it to achieve compliance for registration purposes.

Sec. 9 Noncompliance with Federal and State Equal Opportunity Requirements

A pattern or practice of noncompliance by a sponsor (or where the sponsor is a joint apprenticeship committee by one of the parties represented on such committee) with Federal or State laws or regulations requiring equal opportunity may be grounds for the imposition of sanctions in accordance with Section 13, if such noncompliance is related to the equal employment opportunity of apprentices and/or graduates of such an apprenticeship program under this plan. The sponsor shall take affirmative steps to assist and cooperate with employers and unions in fulfilling their equal employment opportunity obligations.

Sec. 10 Complaint Procedure

(a) **Filing**

(1) Any apprentice or applicant for apprenticeship who believes that he has been discriminated against on the basis of race, color, religion,

national origin, or sex with regard to apprenticeship or that the equal opportunity standards with respect to his selection have not been followed in the operation of an apprenticeship program may, by himself or by an authorized representative, file a complaint with the Department of Labor and Training, or with a private review body established pursuant to subparagraph (3) of this paragraph. The complaint shall be in writing and signed by the complainant, it must include the name, address and telephone number of the person allegedly discriminated against, the program sponsor involved, and a brief description of the circumstances of the failure to apply the equal opportunity standards provided for in this plan.

(2) The complaint must be filed no later than 180 days from the date of alleged discrimination or specified failure to follow the equal opportunity standards; and in the case of complaints filed directly with review bodies designated by program sponsors to review such complaints, any referral of such complaint by the complainant to the Department of Labor and Training must occur within the time limitation stated above or 30 days from the final decision of such review body, whichever is later. The time may be extended by the Department of Labor and Training for good cause shown.

(3) Sponsors are encouraged to establish fair, speedy and effective procedures for review body to consider complaints of failure to follow the equal opportunity standards. A private review body established by the program sponsor for this purpose should number three or more responsible persons from the community serving in this capacity without compensation. Members of the review body should not be directly associated with the administration of an apprenticeship program. Sponsors may join together in establishing a review body to serve the needs of programs within the community.

Please mail complaints to Rhode Island Department Labor & Training
Division of Workforce Regulation & Safety, Office of Apprenticeship.
1511 Pontiac Ave., Building # 70, P.O. Box 20247 Cranston, RI 02920.

Phone number is 401-462-8580 or Fax number is 401-462-8528

(b) Processing of Complaints

- (1) When the sponsor has designated a review body for reviewing complaints, and if the Department of Labor and Training determines that such review body will effectively enforce the equal opportunity standards, the Department of Labor and Training, upon reviewing a complaint, shall refer the complaint to the review body.
- (2) The Department of Labor and Training shall, within 30 days following the referral of a complaint to the review body obtain reports from the complainant and the review body as to the disposition of the complaint. If the complaint has been satisfactorily adjudicated and there is no other indication of failure to apply equal opportunity standards, the case shall be closed and the parties appropriately informed.
- (3) When a complaint has not been received by the review body within 90 days or where, despite satisfactory resolution of the particular complaint by the review body, there is evidence that equal opportunity practices of the apprenticeship program are not in accordance with this plan, the Department of Labor and Training may conduct such compliance review as found necessary and will take all necessary steps to resolve the complaint.
- (4) Where no review body exists, the Department of Labor and Training may conduct such compliance review as found necessary in order to determine the facts of the complaint, and obtain such other information relating to compliance with these regulations as the circumstances warrant.
- (5) Sponsor shall provide written notice of the above complaint procedure to all applicants for apprenticeship and apprentices.

Sec. 11 Adjustments in Schedule for Compliance Review of Complaint Processing

If in the judgment of the Department of Labor and Training, a particular situation warrants and requires special processing and either expedited or extended determination, it shall take the steps necessary to permit such determination if it finds that no person or party affected by such determination will be prejudiced by such special processing.

Sec. 12 Sanctions

- (a) Where the Department of Labor and Training, as a result of a compliance review or other reason, determines that there is reasonable cause to believe that an apprenticeship program is not operating in accordance with this plan and voluntary corrective action has not been taken by the program sponsor, the Department of Labor and Training shall institute proceedings to deregister the program or it shall refer the matter to the U.S. Department of Labor for referral to the Attorney General with recommendations for the institution of a court action by the Attorney General under Title VII of the Civil Rights Act of 1964, as amended, or the Attorney General for other court action as authorized by law.
- (b) Deregistration proceedings shall be conducted in accordance with the following procedures:
 - (1) The Department of Labor and Training shall notify the sponsor in writing, that a determination of reasonable cause has been made under paragraph (a) of this section and that the apprenticeship program may be deregistered unless, within 15 days of the receipt of the notice, the sponsor requests a hearing. The notification shall specify the facts on which the determination is based.
 - (2) If within 15 days of the receipt of the noticed provided for in subparagraph (1) of this paragraph the sponsor mails a request for hearing, the Director shall convene a hearing in accordance with paragraph (c) of this section.

- (3) The Director shall make a final decision on the basis of the record which shall consist of the compliance review file and other evidence presented and, if a hearing was conducted pursuant to paragraph 30.16, the proposed findings and recommended decision of the hearing officer. The Director may allow the sponsor a reasonable time to achieve voluntary corrective action. If the Director's decision is that the apprenticeship program is not operating in accordance with this part, the apprenticeship program shall be deregistered. In each case in which deregistration is ordered, the Director shall make public notice of the order and shall notify the sponsor and the complainant, if any.
- (c) **Hearings shall be conducted in accordance with the following procedures:**
- (1) Within 10 days of receipt of a request for a hearing, the Director shall designate a hearing officer. The hearing officer shall give reasonable notice of such hearing by registered mail, return receipt requested to the sponsor. Such notice shall include a reasonable time and place of hearing; a statement of the provisions of this plan pursuant to which the hearing is to be held; and a concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.
 - (2) The hearing officer shall regulate the course of the hearing. Hearings shall be informally conducted. Every party shall have the right to counsel, and a fair opportunity to present his case including such cross-examination as may be appropriate in the circumstances. Hearing officers shall make their proposed findings and recommended decisions to the Director upon the basis of the record before them.

Sec. 13 Reinstatement of Program Registration

Any apprenticeship program deregistered pursuant to this plan may be reinstated upon presentation of adequate evidence to the Director that the apprenticeship program is operating in accordance with this plan.

The Department of Labor and Training shall inform any sponsor whose program has been deregistered that it may appeal such deregistration to the U.S. Department of Labor in accordance with the procedures of 29 CFR 30.15.

APPEAL TO THE US DEPARTMENT OF LABOR

Any state apprenticeship program deregistered by the State Apprenticeship Agency for non-compliance with requirements of this plan may, within 15 days of the receipt of a notice of deregistration, appeal to the US Department of Labor, Office of Apprenticeship, 200 Constitution Avenue, NW, Washington, DC 20210, to set aside the determination of the State Apprenticeship Agency.

Sec. 14 Intimidatory or Retaliatory Acts

Any intimidation, threat, coercion, or retaliation by or with the approval of any sponsor against any person for the purpose of interfering with any right or privilege secured by Title VII of the Civil Rights Act of 1964, as amended, Executive Order 11246 as amended or because he or she has made a complaint, testified, assisted or participated in any manner in an investigation proceeding, or hearing under this plan, shall be considered noncompliance with the equal opportunity standards of this plan. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purpose of this plan, including the conduct of any investigation, hearing or judicial proceeding arising there from.

Sec. 15 Nondiscrimination

The commitments contained in the sponsor's affirmative action program are not intended and shall not be used to discriminate against any qualified applicant or apprentice on the basis of race, color, sex, sexual orientation, gender identity or expression, religion, national origin, age, those with disabilities or any other protected status.

Sec. 16 Exemptions

Requests for exemption from these regulations, or any part thereof, shall be made in writing to the Director and shall contain a statement of reasons supporting the request. Exemptions may be granted for good cause.

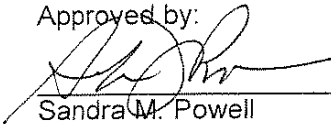
The Department will immediately notify the U.S. Department of Labor of any such exemptions granted affecting a substantial number of employees and the reasons therefore.

Sec. 17 Approval and Effective Date

The Rhode Island State plan embodying the contents of C.F. R. 29 – Part 30, Equal Employment Opportunity in Apprenticeship and Training, dated:

This plan shall be effective beginning 6-23-09

Approved by:


Sandra M. Powell
Director
Department of Labor and Training
State of Rhode Island

Date: 7/1/09



William F. Holmes
Chair
RI State Apprenticeship Council

Date: 7/1/09

Approved by the U.S. Department of Labor:

Date: _____

Signature:

Date: