

RHODE ISLAND DEPARTMENT OF LABOR AND TRAINING

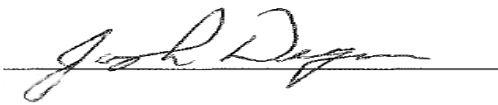
**ADVISORY REGARDING PAYMENT OF FRINGE BENEFITS TO
APPRENTICES ON PREVAILING WAGE PROJECTS**

Please take notice that **effective immediately** the Department will temporarily refrain from enforcing its regulatory requirement that all apprentices on prevailing wage jobs be paid one hundred (100) percent of the applicable fringe benefit as provided in the Davis-Bacon Wage Determinations for journeymen. During this temporary period, the Department will require that apprentices be paid fringe benefits pursuant to the scale and terms of the applicable, registered apprenticeship program under which the apprentices are working on behalf of a sponsor. All such apprenticeship programs must, at a minimum, contain a fringe benefit amount that is a sum certain. If the apprenticeship program is a provisionally-approved apprenticeship program or is a registered apprenticeship program that does not address fringe benefits in its standards, apprentices must be paid the full amount of fringe benefits as provided in the Davis-Bacon Wage Determinations for journeymen. The amount and/or fringe benefit provision contained in the applicable, registered apprenticeship program at the time this advisory becomes effective shall remain until the date this advisory expires. This enforcement procedure will be applicable to all completed projects and all contracts previously awarded, but not yet completed, and/or contracts for which a prevailing wage investigation has been initiated and no final determination has been rendered as of the date of this Advisory. Furthermore, this enforcement procedure will not be applicable to projects where prevailing wage investigations and final determinations have already been made by the Department.

This change is due in part to recent litigation on the issue of whether apprentices on state prevailing wage projects must be paid the full fringe benefit, as the Department has historically enforced, or whether they could be paid an amount that is less than one hundred (100) percent of fringe benefits as provided in the David-Bacon Wage Determinations for journeymen. In deciding the case in the Department's favor, the Superior Court justice assigned to the case nonetheless stated that given the Department's regulations and the statutory requirements, the policy of requiring apprentices to be paid one hundred (100) percent of fringe benefits and the competing policy of requiring apprentices to be paid less than one hundred (100) percent of fringe benefits on prevailing wage projects were both "reasonable" policies. Rhode Island and South East Massachusetts Chapter, National Electrical Contractors Association, Inc., on behalf of itself and its Members and E.W. Audet & Sons, Inc. v. Charles J. Fogarty, In his Official Capacity as Director of the Rhode Island Department of Labor and Training, PB 13-4340. Accordingly, the Department is now considering revising its regulations and enforcing a new policy with respect to the payment of fringe benefits to apprentices on prevailing

wage projects. The Department's goal is to pursue a policy that is not only reasonable but best serves the public's interest. During this time of consideration, the Department will be seeking input from the public. If changes to the Department's Prevailing Wage Regulations are made, those changes will be in full accordance with the Rhode Island Administrative Procedures Act, R.I.G.L. § 42-35-1 et. seq., which requires notice and time for public comment and public hearing, if appropriately requested.

EFFECTIVE DATE: MARCH 3, 2014

A handwritten signature in cursive script, appearing to read "Joseph Degnan", is written over a horizontal line.

**JOSEPH DEGNAN
ASSISTANT DIRECTOR
WORKFORCE REGULATION AND SAFETY**