

Initial Draft of IACA Rules and Regulations

This is an initial draft of possible new rules and regulations and is mostly copied and pasted from the existing California Code of Regulations that apply to the building and construction trades and firefighting. This initial draft is being provided to initiate advisory from IACA and the public to inform the eventual rule making. None of the enclosed is final or proposed but only offered as an initial draft to start the discussion.

LC 3703(b): Pending the issuance of new rules and regulations pursuant to this subdivision, the following regulations in Title 8 of the California Code of Regulations shall apply to programs in all industries other than the building and construction trades and firefighting: Sections 200 to 202, inclusive, Sections 205 to 224, inclusive, Sections 235 to 263, inclusive, and Sections 281 to 282, inclusive, with the exception of any filing requirements, appeal rights, or other procedures pertaining to the California Apprenticeship Council.

§ 200. General Provision.

If any provision of this chapter or application thereof to any person, individual, party, entity or circumstances is held invalid, the remainder of the chapter and the application to any other person, individual, party, entity or circumstances, shall not be affected thereby.

NOTE: Authority cited: Section 3071, Labor Code. Reference: Sections 1777.5 and 3081, Labor Code.

HISTORY 1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 201. Filing of Complaints.

(a) Appeals by apprentices from discipline shall be filed in accordance with the procedures under 8 C.C.R. 207.1. Complaints that are not appeals from discipline may be filed by any interested person with the Administrator of Apprenticeship or the Administrator of Apprenticeship upon his/her own initiative may issue a complaint, within the time period specified below, when there is cause to believe that a decision, order or action of an apprenticeship program sponsor has been in violation of its standards or rules or an apprentice agreement and has been unfair or unreasonable; or that there has been a violation of:

- (1) Chapter 4, Division 3 of the Labor Code (excluding Section 1777.5 and 3099 et. seq.);
- (2) California Code of Regulations, Title 8, Chapter 2, Subchapter 1 (excluding Article 10); or
- (3) Equal Opportunity Standards, which shall be filed and conducted in accordance with the State of California Plan for Equal Opportunity Apprenticeship (see title 8, California Code of Regulations, Section 215).

(b) All such complaints shall be filed within thirty days of the alleged violation, except for violations of Equal Opportunity Standards which shall be filed within 180 days.

Apprentice appeals

(c) Complaints filed with, or issued by the Administrator of Apprenticeship shall contain the following:

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- (1) The full name and address of the party (person, organization, or other party) filing the complaint (hereinafter referred to as the “charging party”).
- (2) The full name and address of the party (person, organization, or other party) against whom the complaint is made (hereinafter referred to as the “respondent”).
- (3) A clear and concise statement of the facts constituting the basis for the complaint.
- (4) The signature of the person filing the complaint or an authorized officer or agent in the case of an organization, employer, labor union, apprenticeship program sponsor, or other interested party.
- (5) A declaration by the person signing the complaint, under penalties of law, that its contents are true and correct to the best of his/her knowledge and belief.
- (d) Upon receipt or issuance of a complaint the Administrator of Apprenticeship shall cause a copy of such complaint to be served upon the respondent(s).
- (e) Complaints may be withdrawn only with the consent of the Administrator of Apprenticeship.

Note: Authority cited: Section 3071, Labor Code. Reference: Sections 3081 and 3082, Labor Code.
HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 202. Investigations, Holding of Hearings and Determinations

- (a) The Administrator of Apprenticeship, or his or her designated representative may take such steps as he or she deems necessary under the circumstances to investigate the complaint and to bring about an amicable adjustment of the controversy. In the event that there are local adjustment procedures which have been approved by the Chief DAS, the charging party(s) shall be referred to that procedure for a period not to exceed 60 calendar days prior to the filing and/or processing of a complaint under this section or Labor Code Section 3081. The referral for local adjustment shall in no way be construed so as to abrogate the statutory right to file a complaint under Section 3081 of the Labor Code.
- (b) The Administrator of Apprenticeship may designate his/her duly authorized representative to conduct an investigation, to hold a hearing in connection with a complaint, and may designate his/her duly authorized representative to decide on the complaint. The Administrator of Apprenticeship may, in the alternative, delegate a representative only to investigate, or only to hold a hearing, and to report to the Administrator of Apprenticeship. The Administrator of Apprenticeship reserves the authority to decide on the complaint. In that case, the duly authorized representative shall submit to the Administrator of Apprenticeship the entire record together with his/her written recommendations. The Administrator of Apprenticeship shall review the record and the written recommendations before deciding on the complaint. The Administrator of Apprenticeship may dismiss any complaint that is not timely filed or that is without merit. In such cases the Administrator of Apprenticeship shall prepare a determination of dismissal and file it with the California Apprenticeship Council, and notify all parties to the complaint in writing in accordance with the Code of Civil Procedure Sections 1013a and 2015.5 of his/her determination to dismiss the complaint and the basis for the determination. The determination of dismissal by the Administrator shall be within sixty (60) calendar days of receipt or issuance of the complaint, provided that the sixty (60) days allowed for a local adjustment procedure shall not affect the time provided for the determination of the Administrator. Any continuance caused by the

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parties shall toll the running of the sixty (60) day period provided for the determination of the Administrator. If any party to the complaint requests a hearing within 10 days of receipt of the notice of determination of dismissal of the complaint and shows good cause why a hearing is necessary, the Administrator or his/her duly authorized representative may conduct a hearing in the same manner as set forth in subdivision (c). (c) If the Administrator of Apprenticeship holds a hearing, it shall be in accordance with the following procedure: (1) He/she shall fix the time and place of the hearing which shall take place no more than 90 days after the decision to hold a hearing and notify all interested parties to the complaint not less than 30 days in advance in writing in accordance with the Code of Civil Procedure Sections 1013a and 2015.5 specifying the time and place of the hearing and specifying whether the hearing will be for the purpose of hearing argument or taking evidence or both. (2) At the hearing, the parties to the complaint shall be given an opportunity to present evidence and/or oral or written arguments in support of their positions as set forth in the notice of hearing. (3) The hearing need not be conducted according to technical rules relating to evidence and witnesses. The hearing officer may require the parties to follow any of the rules of procedure set forth in 8 C.C.R. § 232.01 et. seq. for hearings on public works complaints and shall notify the parties of any such rules that will be followed at the time the parties are advised of the time and place of the hearing. (4) All witnesses testifying before the hearing officer shall testify under oath. (5) A recording shall be made of the hearing. (d) In deciding on the complaint after a hearing, the Administrator of Apprenticeship or his/her duly authorized representative shall prepare a statement of findings of fact, and decision, file it with the California Apprenticeship Council and notify all parties to the complaint in writing in accordance with the Code of Civil Procedure Sections 1013a and 2015.5 of the decision and of any action taken. The Administrator of Apprenticeship's decision on the complaint or any action taken shall be issued or taken no later than sixty (60) calendar days following the hearing.

Note: Authority cited: Section 3071, Labor Code. Reference: Sections 3081 and 3082, Labor Code.
HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 205. Definitions.

(a) "Journeyman," "journeyperson," and "journeyworker" and "journey level worker" mean a person who has either

- (1) completed an accredited apprenticeship in his/her craft, or
- (2) completed the equivalent of an apprenticeship in length and content of work experience and all other requirements in the craft which has workers classified as journeyworkers in the apprenticeable occupation.

These terms shall be understood as having the same meaning and interchangeable, with "journeyworker" and its plural "journeyworkers" being the Council's preferred designation at the time it was added to this subsection.

(b) "Instructor" means a person who has either

- (1) completed an accredited apprenticeship in his/her craft, or
- (2) who has completed the equivalent of an apprenticeship in length and content of work experience and all other requirements in the craft but may not necessarily be designated as journeyworkers.

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(c) An “Apprenticeable Occupation” is one which requires independent judgment and the application of manual, mechanical, technical, or professional skills and is best learned through an organized system of on-the-job training together with related and supplemental instruction. Each “Apprenticeable Occupation” is defined by the work processes contained in the approved apprenticeship standards under which apprentices are training.

(d) “Registration of an Apprentice Agreement” means the acceptance and recording thereof by the Division of Apprenticeship Standards which serves as evidence of the participation of the apprentice in a specific apprenticeship program.

(e) “Apprenticeship Program” means a comprehensive plan containing, among other things, apprenticeship program standards, committee rules and regulations, related and supplemental instruction course outlines and policy statements for the effective administration of that apprenticeable occupation.

(f) “Apprenticeship Program Standards” means that written document containing among other things all the terms and conditions for the qualification, recruitment, selection, employment and training, working conditions, wages, employee benefits, and other compensation for apprentices and all other provisions and statements including attachments as required by the Labor Code and this Chapter which, when approved by the Chief DAS, shall constitute registration of such, and authority to conduct that program of apprenticeship in the State of California.

(g) “Apprenticeship Program Sponsor” means a joint apprenticeship committee, a unilateral labor or management committee, or an individual employer program.

(h) “Related and Supplemental Instruction” means an organized and systematic form of instruction designed to provide the apprentice with knowledge including the theoretical and technical subjects related and supplemental to the skill(s) involved.

(i) “Competent Evidence” as used in Section 224 means a transcript or abstract of the training records required to be maintained pursuant to Section 212(b)(7), or an attestation by the apprentice program sponsor stating that all training has been fully completed, on forms to be provided by the Division of Apprenticeship Standards, demonstrating that the apprenticeship program has been fully complete, certified by the apprenticeship program sponsor and endorsed by a representative of the Division of Apprenticeship Standards.

(j) An “Interested Party” for the purpose of application for approval of an apprenticeship program, means an employer, employer organization or association, a group of employers, employer associations or organizations, an employee association or organization, or employee representatives, a group of employee representatives, associations or organizations, labor and/or management groups or any combination thereof whose interest may be affected by the apprenticeship program if approved.

(k) “Maintenance” is defined as routine, recurring and usual work for the preservation, protection and keeping of any facility for its intended purposes in a safe and continually usable condition.

(l) The term “Chief DAS” means the Chief of the Division of Apprenticeship Standards.

(m) “Employed as an apprentice” in the building and construction trades industry for the purpose of Labor Code Section 3080.5 means employment pursuant to the approved standards of apprenticeship of the Program, under the supervision of journeyworker(s),

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where the apprentice is receiving at least the minimum wage applicable to the apprentice's period of apprenticeship as provided for in this chapter.

(n) "Geographic Area of Operation" of an apprenticeship program means the geographic area in which the program regularly operates and trains apprentices.

(o) "Acceptable electronic format" means either of the following:

(1) A tilde (~) delimited text string for each apprentice action containing the fields specified by the DAS' "Apprenticeship Electronic Data Interchange Protocol" and submitted via Secure File Protocol Transfer (SFTP). A static Internet Protocol address will be required by the SFTP server for security.

(2) Direct entry and submission of report data through an online platform on the DAS website at <https://www.dir.ca.gov/das>.

(p) "Work Process" is a skill or task, stated in program's apprenticeship standards, in which the apprentice will receive supervised work experience and training on the job.

(q) "Registered Apprentice" means a person who is training under and in accordance with apprenticeship standards that have been approved by the Chief DAS, and who is party to an apprentice agreement that has been accepted by the Division of Apprenticeship Standards.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3071, 3073, 3075, 3077, 3079, 3086 and 3090, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 206. Approval and Registration of Apprentice Agreements

(a) Agreements approved by Joint Apprenticeship Committee

(1) An apprentice agreement in an approved joint apprenticeship program shall be approved by the joint apprenticeship committee if the agreement complies with the apprenticeship program standards and Chapter 4 of Division 3 of the Labor Code and its implementing regulations under Title 8, California Code of Regulations, Section 200 et seq; and where there are adequate related and supplemental instruction and an assurance of employment to provide on-the-job training.

(2) After approval by the joint apprenticeship committee, the agreement shall be sent to DAS for registration within thirty (30) days of its execution by the apprentice.

(3) DAS shall register the agreement if DAS determines that it was approved in accordance with the requirements set out above, under subsection (a)(1), and it was submitted to DAS within thirty (30) days of its execution by the apprentice.

(4) Within thirty (30) days of receipt of the agreement, DAS shall either register the agreement or return it to the program sponsor with the reasons for non-registration. If DAS registers the agreement, the registration shall be effective as of the date of its execution by the apprentice.

(b) Agreements approved by the Administrator

(1)(A) If there is no joint apprenticeship committee, the apprenticeship agreement shall be sent to DAS for approval by the Administrator within thirty (30) days of its execution.

(B) The agreement shall be approved if the Administrator determines that it complies with the requirements set out above, under subsection (a)(1), and it was submitted to DAS within thirty (30) days of its execution by the apprentice.

(2) If approved, the agreement shall be considered registered as of the date of its execution by the apprentice. A copy of the approved agreement shall be filed with the

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IACA for its review. If the Administrator does not approve the agreement, it shall not be registered and shall be returned to the program sponsor within 30 days of the date of receipt with the reasons for non-approval.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3071, 3079 and 3080, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 207. Termination of Apprentice Agreements.

(a) During the probationary period, if any, an apprentice agreement shall be terminated by the program sponsor at the request in writing of either party. An apprentice terminated by the program sponsor while on probation shall have no right to file a complaint under section 201 nor to contest the cancellation under section 207.1.

(b) After the probationary period, or where there is no probationary period, the apprentice agreement may only be terminated by the Administrator.

(1) Where there is mutual agreement of the parties, an apprentice agreement may be terminated by submitting to the Administrator a request in writing to terminate the agreement signed by the parties.

(2) Where there is not mutual agreement, either party may request that the agreement be terminated by the Administrator. The party making the request shall submit whatever evidence it believes shows that there is good and sufficient reason to terminate the agreement. The Administrator shall review the evidence and, where there is good and sufficient reason, shall terminate the agreement. The Administrator shall act within sixty days of receipt of the request. No program sponsor shall submit a request to terminate an apprentice agreement unless it shall first have given the apprentice notice in writing of its intended action and, if the program's standards provide for a local adjustment procedure, of the apprentice's right to exhaust the local adjustment procedure. In its request, the program sponsor shall advise the Administrator of the notice to the apprentice.

NOTE: Authority cited: Section 3071, Labor Code. Reference: Sections 3077, 3078, 3079 and 3080, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 207.1. Appeals from Requests to Terminate Apprentice Agreements and from Apprentice Discipline.

(a) An apprentice who contests a program sponsor's request for termination may file an appeal with the Administrator of Apprenticeship.

(1) Any appeal must be filed within 30 days from written notice of the action of the Committee, and shall contain:

(A) The full name and address of the apprentice filing the complaint (hereinafter referred to as the "complainant").

(B) The full name and address of the party (person, organization, or other party) against whom the complaint is made (hereinafter referred to as the "respondent").

(C) A clear and concise statement of the facts constituting the basis for the complaint and the specific section of the Standards, or Program Rules that the apprentice contends have been violated.

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(D) The signature of the person filing the complaint.

(E) A declaration by the person signing the complaint, under penalty of perjury, that its contents are true and correct to the best of his/her knowledge and belief.

(2) Upon receipt of an appeal, the Administrator of Apprenticeship shall cause a copy of such complaint to be served upon the respondent(s).

(3) Respondent shall have 30 days to provide the Administrator with evidence that it had good and sufficient reason for terminating the agreement and that it followed its standards and rules in disciplining the apprentice. Respondent shall also provide a copy of the minutes of the appeal hearing which considered the action by the program.

(4) After reviewing the complaint and the evidence provided, the Administrator shall have discretion to investigate the complaint further and may hold a hearing to allow the parties to present argument, either orally or in writing. The Administrator may also allow the parties to present evidence and in such case any hearing shall be in accordance with the procedures set out in 201(b) and (c)

(b) An apprentice who contests a program sponsor's imposition of discipline short of termination may file an appeal with the Administrator following the same procedure set forth in (a) above and the appeal shall be considered in the same manner as set forth in (a) above for appeals from requests for termination.

Note: Authority cited: Section 3071, Labor Code. Reference: Sections 3071, 3081 and 3082, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 208. Wages, Employee Benefits, and Other Compensation for Apprentices.

(a) For Apprentices In All Occupations Except The Building And Construction Trades Industry:

For apprentices participating in approved apprenticeship programs in all industries, except the building and construction industry, the beginning wage rate, employee benefits and other compensation, and the progression of those rates, shall be decided by the sponsoring program in consultation with and subject to the approval of the Chief DAS.

(d) For All Apprentices

- i. Nothing in this Section shall permit the payment of less than the minimum wage prescribed by the Federal Fair Labor Standards Act or any applicable State minimum wage order.
- ii. In early 2022, DAS Chief's authority under CCR §208, and with full support from the CA Labor & Workforce Development Agency (Agency), directed that all apprenticeship programs/occupations outside the building & construction and firefighter trades should utilize the Employment Training Panel (ETP) Trainee Wages as guidelines for setting the beginning apprentice wage rate. While ETP minimum wages are not required by CA Labor Code or Regulation, staff should caution programs as the Chief has sole discretion to approve/deny programs that are not in the building & construction and firefighter trades.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3071 and 1777.5, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

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§ 209. Overtime Provision.

Overtime shall not interfere with or impair the training and shall not be detrimental to the health and safety of apprentices.

NOTE: Authority cited: Section 3071, Labor Code. Reference: Sections 3071 and 3078, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 210. Working Conditions.

Apprentices shall work under and with competent journeyworkers and/or instructors and shall be assigned to work and learning tasks so that they obtain the diversified training on-the-job provided for in the apprenticeship standards.

NOTE: Authority cited: Sections 3071 and 3078, Labor Code. Reference: Section 3071, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

XXX. Criteria for Apprenticeable Occupations

An apprenticeable occupation is one which is specified by industry and which must: (a) Involve skills that are customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning; (b) Be clearly identified and commonly recognized throughout an industry; (c) Involve the progressive attainment of manual, mechanical or technical skills and knowledge which, in accordance with the industry standard for the occupation, would require the completion of at least 2,000 hours of on-the-job learning to attain; and (d) Require related instruction to supplement the on-the-job learning.

§ 212. Content of Apprenticeship Program Standards.

Apprenticeship programs shall be established by written apprenticeship standards which must be approved by the Chief DAS under Section 212.2. In order to be approved, the standards must cover all work processes within the apprenticeable occupation. The standards must contain:

(a) A statement of:

- (1) the apprenticeable occupation(s) and the method of delivery, and an outline of the work processes in which the apprentice will receive supervised on-the-job work experience and training and the allocation of the approximate time to be spent in each major process;
- (2) the parties to whom the standards apply, the program sponsor's labor market area, as defined by Section 215 appendix 2(I), for purposes of meeting equal employment opportunity goals in apprenticeship training and the program's geographic area of operation as defined by section 205(n);
- (3) the duties of the apprentice;
- (4) the apprentice's working conditions unique to the program;
- (5) the progressively increasing wage, employee benefits and other compensation of the apprentice, as set by Section 208;

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- (6) the ratio of apprentices to journeyworkers, or the number of apprentices to be employed and the method used to determine the ratio whether by job site, workforce, department or plant;
- (7) the local education agency that has agreed to provide the related and supplemental instruction and a description of the courses and course hours to be provided, or the educational institution that has agreed to provide the related and supplemental instruction and a description of the courses and course hours to be provided, and the local education agency which has agreed to oversee the related and supplemental instruction, where the related and supplemental instruction is not provided by an authorized local education agency, ;
- (b) Provisions for:
 - (1) establishment of an apprenticeship committee, if applicable;
 - (2) administration of the standards;
 - (3) establishment of rules and regulations governing the program. An apprenticeship program's standards or rules may provide for a period of probation which may not be for more than the combination of 1,000 hours of employment and 72 hours of related instruction;
 - (4) determining the qualifications of employers if other than single employer programs and an orientation, workshop, or other educational session for employers to explain the apprenticeship program's standards and the operation of the apprenticeship program;
 - (5) determining the qualifications of apprentice applicants and fair and impartial treatment of applicants for apprenticeship selected through uniform selection procedures, which shall be an addendum to the standards, pursuant to Section 215;
 - (6) the incorporation of the provisions of the standards into the apprentice agreement either directly or by reference;
 - (7) a procedure to be utilized for the recording and maintenance of all records concerning apprenticeship and otherwise required by law, including a system for recording the apprentice's current address, worksite job progress, and progress in related and supplemental instruction, as well as a system for the periodic review and evaluation of the apprentice's progress in job performance and related instruction;
 - (8) discipline of apprentices for failure to fulfill their obligations on-the-job or in related instruction, including provisions for fair hearings;
 - (9) terminating, or recommending the cancellation of, apprentice agreements in accordance with section 207;
 - (10) recommending issuance of State Certificates of Completion of Apprenticeship pursuant to Section 224;
 - (11) training in the recognition of illegal discrimination and sexual harassment;
 - (12) approval of the standards, and revisions to the standards, by the Chief DAS;
 - (13) an adequate mechanism to be used for the rotation of the apprentice from work process to work process to assure the apprentice of complete training in the apprenticeable occupation including mobility between employers when essential to provide exposure and training in various work processes in the apprenticeable occupation; and an adequate mechanism that will be used to provide apprentices with reasonably continuous employment in the event of a lay-off or the inability of one employer to provide training in all work processes as outlined in the standards;

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(14) the on-going evaluation of the interest and capacity of individual employers to participate in the apprenticeship program and to train apprentices on-the-job and provisions for the evaluation of on-the-job training and related and supplemental instruction;

(15) compliance with training criteria where such have been adopted pursuant to Section 212.01; and

(16) meaningful representation of the interests of apprentices in the management of the program, which is shown where:

(A) In a joint labor-management sponsored program, the apprentices participating in that program are represented by a labor organization pursuant to one of the following: National Labor Relations Act, the Railway Labor Act, the California Public Employee Relations Act, Agricultural Labor Relations Act, the Meyers-Milias Brown Act;

(B) In a program sponsored by more than one employer or an association of employers, the apprentices participating in that program are at least equally represented on an advisory panel established by the apprenticeship committee responsible for the operation of the program. The apprentices shall be represented on the advisory panel by at least three representatives of the apprentices' choice who shall have full voice and vote on the panel except as to financial matters or matters that relate to the administration or structure of an employee benefit plan or the administration or operation of a trust fund. The representatives of the apprentices shall be selected by way of a secret ballot election among the apprentices conducted by the apprenticeship program not less than once every two (2) years. This advisory panel shall meet not less than once every quarter to address issues and concerns raised by and affecting the apprentices in the program.

(d) The names and signatures of the parties.

XXX.X – Training Approaches of Apprenticeship

Program sponsors make the determination of the appropriate approach, subject to approval by the Chief DAS under Section 212.2, of the determination as appropriate to the apprenticeable occupation for which the programs standards are registered.

(a) All training approaches measure the attainment of manual, mechanical or technical skills and knowledge, and have the following characteristics:

(1) Occupations must meet the criteria for an apprenticeable occupation

(2) Terms of apprenticeship must include a minimum of twelve (12) months unless otherwise stated in the specific approach requirements and a minimum of 144 hours of related and supplemental instruction. (Recommended 144 hours of related and supplemental instruction per year.)

(3) Competencies should be directly related to the occupation and the on-the-job learning.

(4) Time allocations for the workplace activities listed in the work process schedule reflect the training approach utilized.

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(5) Measures or tests of competency attainment and demonstrated skills performance are the responsibility of the sponsor and should be observable, repeatable and agreed to in advance.

(i) The methods used to measure or test competency attainment will be defined in the standards of apprenticeship.

(ii) Assessments should directly link workplace performance requirements with the foundational knowledge and skills (competence) of the apprentice.

(iii) Assessments on-the-job and off-the-job should be carried out on a structured on-going basis, and include course work, practical assessments and theoretical assessments. Written and practical end-testing may also be utilized.

(iv) The sponsor should consider utilizing in-house or third-party industry experts as assessors and evaluators of the apprentice's accomplishments.

(6) Related instruction coursework provides apprentices with the technical, workplace, and knowledge competencies that apply to the job.

(i) Theory and task knowledge enable the apprentice to understand the work performed on the job. An analysis is conducted to determine if the skills required in the workplace match the theory and course work that is taught.

(ii) Related instruction may be front-loaded, segmented, or delivered concurrently with the on-the-job learning. The sequence of related instruction courses should align with the sequence of learning and training required on the job.

(iii) A minimum of 144 hours for each year of apprenticeship is recommended.

(iv) Related Instruction may be delivered in a classroom, through academic, vocational, career and technical education courses, and/or via web-based/online courses of equivalent value as approved by the Local Education Agency.

(b) An apprenticeship program sponsor shall select one of three approaches for measuring the completion of the term of apprenticeship:

(1) The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as verified by the program sponsor. Programs utilizing this approach must still require apprentices to complete a supervised on-the-job learning component of Registered Apprenticeship. Competency-based approaches have an open entry and exit design, which enables apprentices to accelerate the rate of competency achievement or extend the term of training in order to meet performance-based completion requirements.

(i) The program standards must address how on-the-job learning will be integrated into the program, describe competencies, and identify an appropriate means of testing. A competency-based approach does not require time/hours to be assigned to each task.

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(2) The Time-based approach provides for skill acquisition through the apprentice's completion of at least 2,000 hours of supervised on-the-job training as described in the work process schedule.

- (i) The program standards must specify the approximate time/hours to be spent in each major work process.

(3) The Hybrid approach provides for the measurement of the apprentice's skill acquisition through a combination of specified minimum hours of supervised on-the-job learning and successful demonstration of identified and measured competencies.

- (i) The program standards must meet the requirements for the competency-based portion of the apprentice's term of apprenticeship.
- (ii) The program standards must specify a minimum and maximum range of hours of on-the-job learning for each task or job requirement, plus the successful demonstration of acquired skills as described by the task statements listed in the work process schedule.

XXX.X – Competency Based Programs

(1) The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as verified by the program sponsor. Programs utilizing this approach must still require apprentices to complete an on-the-job learning component of Registered Apprenticeship. The program standards must address how on-the-job learning will be integrated into the program, describe competencies, and identify an appropriate means of testing. Occupations need to be a minimum of 2,000 hours of on-the-job training, and supplemented with the required related technical instruction.

Competency-based approaches have an open entry and exit design, which enables apprentices to accelerate the rate of competency achievement or extend the term of training in order to meet performance-based completion requirements.

XXX.X – Hybrid Programs

Sponsors that choose to utilize a hybrid approach must comply with these guidelines for the competency-based portion of the apprentice's term of apprenticeship. The hybrid approach specifies a minimum and maximum range of hours of on-the-job learning for each task or job requirement, plus the successful demonstration of acquired skills as described by the task statements listed in the work process schedule.

Under the hybrid approach, the term of the occupation cannot be less than 2,000 hours of on-the-job learning. However, once a term of a hybrid occupation has been Approved the range of hours may be adjusted upward or downward by twenty-five (25) percent, but not both ways. For example: a hybrid occupation with a range of 3,000 to 4,000 hours can be increased with a range of 4,000 to 5,000 hours.

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A minimum/maximum range of hours would also give the apprentice an opportunity to accelerate the completion of the apprenticeship program with the appropriate test and evaluations provided to the apprentice, by the sponsor.

XXX.X – Time based Programs

(1) A time-based occupation requires completion of a minimum of 2,000 hours, which includes an outline of the specific work processes in which the apprentice will receive supervised work experience and the allocation of approximate amount of time to be spent in each task or job requirement in the work process schedule for that occupation. The term of an approved time-based occupation can be increased or decreased by 25 percent. The term of a time-based occupation cannot be less than 2,000 hours.

XXX.X – Certificate of Completion of Apprenticeship-Minimum Requirements:

(a) The Certificate of Completion of Apprenticeship will be issued to those registered apprentices certified and documented by the Sponsor as successfully completing the apprentice training requirements for the competency-based, hybrid, or time-based approach, as specified in the Standards of Apprenticeship. The apprentice is also required to have worked under the Program Sponsor as a registered apprentice, for a minimum of six (6) months, exclusive of any prior experience granted, and completed a minimum of 1,000 hours of on the job training, exclusive of any prior experience granted.

§ 212.1. Reciprocal Approval of Apprenticeship Programs.

Apprenticeship programs and standards of employers and unions in other than the building and construction trades industry, which jointly form a sponsoring entity on a multistate basis and are registered pursuant to all requirements of Title 29 Code of Federal Regulations, Part 29, as adopted February 15, 1977, by any recognized State Apprenticeship Agency/Council or by the Bureau of Apprenticeship and Training, U.S. Department of Labor, shall be accorded approval reciprocity by the Chief DAS, if such reciprocity is requested by the sponsoring entity.

NOTE: Authority cited: Section 3071, Labor Code. Reference: Section 3071, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 212.2. Eligibility and Procedure for DAS Approval of an Apprenticeship Program.

(a) To be eligible for approval, a program must comply with all applicable federal and state law and regulations. A revision to change the program's occupation or to change the program's geographic area of operation to include a different labor market area is subject to the same application and approval process set out in (a)-(j) of this section for approval of a program, including providing notice of the proposed revision and an

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opportunity for comment to existing programs in the same apprenticeable occupation in the labor market area. The program sponsor shall submit to the Chief DAS, an application for approval of the program and shall provide the program standards and, either with the application or during the application review process, evidence of:

(1) commitment to provide safe work site facilities and safe equipment sufficient to train the apprentices;

(2) commitment to provide skilled workers as trainers at the work site who meet the criteria for journeyworker or instructor as defined in Section 205(a) or (b);

(3) adequate arrangements for related and supplemental instruction pursuant to Labor Code section 3074;

(4) ability to offer training and supervision in all work processes of the apprenticeable occupation;

(5) the program sponsor's ability, including financial ability, and commitment to meet and carry out its responsibility under the federal and state law and regulations applicable to the apprenticeable occupation and for the welfare of the apprentice.

(b) The training must be in an apprenticeable occupation as defined in Section 205(c) and must conform to the requirements of Section 215 concerning equal opportunity in apprenticeship.

(c) Within 30 days after receipt of an application for approval of a program, or for approval of amendments to program standards, including any change to include new work processes or to revise the program's geographic area of operation to include a different labor market area, the Chief DAS shall notify the sponsor in writing either that:

(1) the application is complete and accepted for filing; or (2) the application is incomplete and specified additional information is required.

(d) Where a collective bargaining agreement exists, a program shall be jointly sponsored unless either party to the agreement waives its right to representation in writing.

(e) If the standards or collective bargaining agreement of a program proposed by an employer or employers' association provide for participation by a union in the operation of the program, the sponsor shall provide evidence that the union accepts or does not oppose the program. The union may submit comments on the proposed program within thirty days after receipt of the proposed standards. The Chief DAS may, in his or her discretion, consult with such union concerning the proposed program.

(f) If the standards and collective bargaining agreement of a program proposed by an employers' association do not provide for participation by a union in the operation of the program, the sponsor shall serve a copy of the proposed standards and any supplement thereto on the union, if any, which is the collective bargaining agent of the employees to be trained. The union may submit comments on the proposed program within thirty days after receipt of the completed standards. The Chief DAS may, in his or her discretion, consult with such union concerning the proposed program.

(g) Upon determination that an application is complete and accepted for filing pursuant to subsection (c), the DAS shall post notice of the application and a copy of the proposed standards on its website, together with information on how interested parties may submit comments on the application or standards. These items shall remain posted for a minimum of 30 days prior to any decision by the Chief DAS to approve or reject the application.

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(h) The Chief DAS may, in his or her discretion, hold a hearing on any issue relating to the compliance of a proposed program with federal and state law and regulations. The Chief shall provide notice of, and an opportunity to attend, the hearing to the sponsor, to any union described in subsection (e) or (f), and to any other interested party who has submitted comments on the application or who has requested notice and an opportunity to attend any hearing on the application. The hearing shall be conducted informally without the application of formal rules of evidence or procedure.

(i) The Chief DAS's decision whether to approve a program shall be issued within ninety days after the receipt of the completed application for approval. The decision shall be provided to the sponsor and posted on the DAS website. The decision shall be in writing and shall set forth the relevant findings of fact, a discussion of any issues raised by any comments or at any hearing, and the reasons for the decision.

(j) If an application is disapproved due to the applicant's failure to comply with subsection (a)(6) above, the Chief DAS shall also provide a detailed explanation of the deficiencies in the application and recommendations for addressing those deficiencies to obtain program approval. The applicant may then either appeal the decision pursuant to subsection (k) below or submit a new or amended application within 90 days of receipt of the Chief's recommendations. The Chief shall then have 90 days to approve or deny a new or amended application and shall again provide a detailed explanation of the basis for the decision. If the new or amended application is again denied, the applicant may file an appeal pursuant to subsection (k).

(k)(1) For building and construction trades and firefighter programs, the Chief DAS's decision approving or disapproving a proposed program or proposed amendments to program standards shall be final and become an Order of the Council if no appeal is filed within 30 days following the posting of the decision on the DAS website. The appeal may be filed by the sponsor or by any union or other interested person who was authorized to and did submit comments under this section;

(2) For any other program, the Chief's decision approving or disapproving a proposed program or proposed amendments to program standards shall be final and not subject to further appeal to the Council unless an appeal has been filed within 30 days following the posting of the Chief's decision on the DAS website and either of the following applies:

(A) Within 30 days after posting of the notice and application pursuant to subsection (g) or such additional time as the Chief may permit, a party submitted written comments raising the objection that the program or amendment involves a work process that may be covered by a building and construction trades or firefighter program, and the Chief failed to seek and obtain the Council's consent prior to approving the program or amendment; or

(B) DAS failed to post notice as required by subsection (g).

(l) The chairperson of the Council shall refer the appeal, if any, to a three member panel which shall submit a recommendation to the full Council. The Panel's recommendation shall be submitted no later than the second regularly scheduled meeting of the Council after the filing of the appeal. The panel may, in its discretion, hold a hearing if the Chief did not hold a hearing in the consultation process. The hearing shall be conducted in compliance with Section 203.

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(m) The Council may affirm, reverse, or modify the decision of the Chief or of the appeal panel. The decision of the Council on an appeal shall be final.

(n) Posting on the DAS website shall constitute the only form of notice and service required for providing notice of an application and copies of proposed standards pursuant to subsection (g) and for providing notice and a copy of the Chief DAS's decisions pursuant to subsections (i) and (j). Unless the Chief DAS has authorized a different form of notice or service, all other documents, notices and appeals filed or served under this Section shall be filed or served in accordance with Section 229.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3073, 3075 and 3090, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 212.3. Apprenticeship Program Self Evaluation and Monitoring.

(a) Each apprenticeship program shall annually prepare and submit a Self-Assessment Review as well as a Program Improvement Plan to the Chief DAS; provided, however, that a program is not required to submit a Review and a Plan in the first year of its existence.

(b) The Self-Assessment Review shall contain an objective and critical appraisal of the following items at a minimum:

- (1) curriculum and instruction;
- (2) supervision and management;
- (3) individual apprentice training plans;
- (4) use of competent and qualified personnel;
- (5) utilization of facilities, equipment and material;
- (6) community, business and industry involvement;
- (7) recruitment, assessment and placement;
- (8) program promotion;
- (9) program accountability;
- (10) safety and drug-free environmental training; and
- (11) training in the recognition of sexual harassment and illegal discrimination.

(c) The Program Improvement Plan shall contain provisions by which the program sponsor(s) represent that good faith efforts shall be made to improve identified deficiencies in program operations and in the training of apprentices. Such Plan shall contain at a minimum:

- (1) remedial priorities;
- (2) program improvement objectives;
- (3) identification of personnel, resources, and action needed; and
- (4) timelines for completion of objectives.

(d) A program may be selected for evaluation at any time to ensure:

- (1) the program is complying with its standards;
- (2) adequate related and supplemental instruction is provided;
- (3) on-the-job training is provided by a journeyworker;
- (4) all work processes are being covered; and
- (5) graduates have completed the necessary requirements.

(e) DAS shall select a program for priority evaluation based on the following:

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- (1) a finding of a deficiency made by the DAS Chief, which shall include deficiencies noted in the program self-assessment, program review, and deficiencies in areas listed in subsection (d);
- (2) a determination that a program has been the subject of two or more meritorious complaints concerning the recruitment, on-the-job training, or related and supplemental instruction within a five year period;
- (3) a determination that a program has an annual completion rate below 50 percent of the average completion rate;
- (A) For purposes of this section, the annual completion rate shall be determined by calculating the percentage of apprentices registered in a specific industry and program who receive a Certificate of Apprenticeship Completion by the end of the calendar year following the expected completion date listed on their apprenticeship agreements ("Calculation Period"). Apprentice agreements that are cancelled within one year after execution of the agreement by the apprentice will be excluded from this calculation. Completion rates will be determined annually on a program and industry-wide basis.
- (B) A program sponsor may, within one year after its annual completion rate has been determined, submit a written request to the Chief DAS to have its completion rate for that year revised to include any apprentices who have received a Certificate of Apprenticeship Completion within one year after the end of the Calculation Period. The request must provide the names of the apprentices and state the reasons for their delayed completion dates. Such requests shall be granted upon a showing of good cause, which shall include economic conditions that limit opportunities for on-the-job training, and personal extenuating circumstances that prevent apprentices from completing the program within the Calculation Period.
- (4) a finding of evidence that information provided by a building and construction trades industry apprenticeship program was purposefully misstated.
- (f) A program that has been selected for evaluation shall be notified by the Chief DAS at least 14 days prior to the commencement of the evaluation.
- (g) An evaluation of a program shall include a review of the program records, including records of apprentice training and related and supplemental instruction; inspection of the program's training facilities; visits to on-the-job training locations; and review of individual apprentice records. Apprentice records may be reviewed by a method of random selection and not every apprentice record need be reviewed so long as a sufficient number are reviewed to fairly evaluate the program. DAS shall attempt to contact at least 30 percent of the apprentices who have dropped out of the program prior to completion in the preceding five years to determine their reasons for leaving the program. The Chief DAS shall provide a copy of the proposed evaluation report to the program within 30 days of the completion of the evaluation. The program shall have 14 days following receipt of the report to make comments. The Chief DAS may reopen the evaluation in response to any comments, and shall take into account any comments when preparing a final evaluation report.
- (h) The final evaluation report shall contain recommendations for remedial action to correct any deficiencies that have been identified and a proposed time schedule for doing so. The report shall not include the name, address or social security number or other identifying information about any apprentice and shall not include any medical or other confidential information about any apprentice. Programs that fail to follow the

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Chief DAS recommendations or correct deficiencies within 90 days of the final evaluation report shall be subject to deregistration under Section 212.4 (b).

Authority cited: Section 3071, Labor Code. Reference: Sections 3073, 3073.1, 3074, 3074.3, 3075, 3078 and 3090, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 212.4. Deregistration of Programs.

The deregistration of a program cancels the approval of a program to operate.

(a) The Chief DAS shall deregister an apprenticeship program upon the request of the sponsor as long as within fifteen days of the Chief's acknowledgment of the request for deregistration, the sponsor shall inform each apprentice in writing of the deregistration, the proposed effective date of the deregistration and the names and addresses of other programs in the area. The Chief shall not deregister the program

(b) The Chief may deregister an apprenticeship program, if the program is not conducted, operated and administered in accordance with applicable federal and state law and regulations or the program's approved apprenticeship standards, or if a program has had no active apprentices for a period of two (2) years, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with Section 215:

(1) If the Chief has information that a program is not being operated in accordance with applicable federal and state law and regulations or the program's approved apprenticeship standards, the Chief shall so notify the program sponsor in writing sent by registered or certified mail, with return receipt requested. The notice shall identify the violation and the action needed to correct the violation. The notice shall state that the program will be deregistered unless corrective action is completed within thirty days. Upon a showing of good cause, the Chief may grant the sponsor a reasonable extension of time to achieve corrective action. Where the Chief has information that a program has had no active apprentices for a period of two (2) years, that shall be considered grounds for deregistration and the Chief shall notify the program sponsor in writing as set forth above that the program will be deregistered unless the program can show good cause within thirty (30) days why it should not be deregistered;

(2) The Chief shall advise the sponsor in every reasonable way to help the program sponsor correct the violation;

(3) If the required correction is made, the Chief may periodically review the program to see that the correction is maintained;

(4) If the required correction is not completed, or if a program which has had no active apprentices for a period of two (2) years fails to show good cause why it should not be deregistered, within the allotted time, the Chief shall send a notice to the sponsor, by registered or certified mail, return receipt requested. The notice shall:

(A) State that it is sent pursuant to this subsection;

(B) Indicate that the program has had no active apprentices for a period of two (2) years and has failed to show good cause why it should not be deregistered; or identify the violation with particularity, state when it was called to the sponsor's attention, identify the correction required and state that the sponsor has failed or refused to correct the violation;

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(C) State that the Chief will recommend that the Administrator deregister the program unless the sponsor requests a hearing within fifteen days of the date of the notice;

(5) If the sponsor does not request a hearing, the Chief shall transmit to the Administrator a report containing all pertinent facts and circumstances concerning the violation, including the findings and recommendation for deregistration, and copies of all relevant documents and records. Statements concerning interviews, meetings and conferences shall include the time, date, place, and persons present. The Administrator shall make a final order on the basis of the record.

(6) If the sponsor requests a hearing, the Chief shall transmit to the Administrator a report containing all the data listed in subparagraph (5) above. The Administrator shall hold a hearing in accordance with Section 202, and shall make a final decision on the basis of the record, including the proposed findings and recommended decision of the Chief. At the Administrator's discretion, he/she may allow the sponsor a reasonable period of time to achieve corrective action.

(7) The decision of the Administrator concerning deregistration of a program shall be final and become an order of the Committee unless an appeal is filed by the sponsor with the Committee within thirty (30) days following the date the decision is issued. If the program is deregistered, and no appeal to the Committee is filed, the deregistration shall be effective sixty (60) days following the date the Administrator's Decision was issued.

(8) The sponsor may appeal the Administrator's Decision to the Committee. If an appeal is filed, the procedures of Section 203 shall be followed. The Decision of the Committee shall be final and shall be effective thirty (30) days following the date the Committee's Decision is issued.

unless the sponsor complies with this requirement. (9) Upon issuance of the Administrator's Decision to deregister, the Administrator shall make public notice of this Decision and shall notify the sponsor and other programs in the same occupation and in the same labor market area. Within 15 days of service of the Administrator's Decision, the sponsor shall notify each apprentice of the Administrator's Decision to deregister the program. The sponsor shall inform each apprentice that, if the deregistration decision becomes final, it automatically terminates the apprentice's individual registration. The sponsor shall provide each apprentice with the names and addresses of other programs in the area. Finally, the sponsor shall provide Chief, DAS, with proof of said mailing.

NOTE Authority cited: Sections 3071 and 3081, Labor Code. Reference: Sections 3073, 3075, 3078, 3081, 3082, 3083 and 3090, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 213. Discipline--Cancellation.

The apprenticeship program standards may provide for the disciplining of apprentices for failure to fulfill their obligations on-the-job or in related instruction. Disciplinary measures may include provisions for the suspension of an apprentice for a period not to exceed sixty (60) days. Standards may provide for a recommendation to the Administrator of Apprenticeship for the immediate cancellation of the apprentice agreement for good and sufficient reason.

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NOTE: Authority cited: Section 3071, Labor Code. Reference: Section 3071, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§214. Approved Forms.

§ 215. State Compliance.

Selection procedures must be in writing, approved by the apprenticeship program sponsor, and must meet objective standards.

Apprenticeship programs must comply with the State of California Plan for Equal Opportunity in Apprenticeship adopted by the California Apprenticeship Council on April 26, 1986 to be effective September 28, 1986, as though expressly set forth herein and shall be considered as an appendix hereto and appropriately marked as such, including the month and year of adoption.

NOTE: Authority cited: Section 3071, Labor Code. Reference: Sections 3071, 3075.1 and 3076, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 218. Apprenticeship Programs.

The administration and operation of apprenticeship programs shall be supervised by an apprenticeship program sponsor which shall approve apprentice agreements, adjust disputes and perform such other functions and duties as are agreed to in the apprenticeship standards. An apprenticeship program is not restricted to a local area of coverage and may provide for local, regional or statewide coverage in its standards. All actions and determinations regarding apprenticeship programs by apprenticeship program sponsors shall be made after giving reasonable notice and opportunity to be heard to all interested parties. Program sponsors determine the most appropriate approach for the apprenticeship program; competency-based, hybrid or traditional along with the on-the job training & related supplemental instruction components (pending more info).

NOTE: Authority cited: Section 3071, Labor Code. Reference: Sections 3073 and 3075-3080, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 224. When Issued.

(a) A "Certificate of Completion of Apprenticeship" attesting to the completion of an apprenticeship will be issued under the authority of the Interagency Advisory Committee on Apprenticeship by the Division of Apprenticeship Standards upon receipt of such competent evidence as may be required by the Interagency Advisory Committee on Apprenticeship.

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(b) The certificate shall signify completion of an apprenticeship under standards and apprentice agreement approved under the State Apprenticeship Law and these regulations.

(c) Completion of the entire apprenticeship program by the apprentice shall be attested to by the local apprenticeship program sponsor. The local apprenticeship program sponsor will attest to the related and supplemental instruction after consulting with the appropriate school authorities regarding the completion of the educational requirements of related and supplemental subjects.

(d) The certificate is in recognition of completion of an apprenticeship. The certificate may be granted to an apprentice only when the apprentice:

(1) in addition to previous on-the-job training and related school instruction which is of an approved nature, shall have completed not less than an additional six (6) months as an apprentice under the laws of the State of California; and

(2) demonstrated to the satisfaction of the apprenticeship program sponsor, mastery of the skills and knowledge of the prescribed program.

(e) The local apprenticeship program sponsor in recognition of unusual ability and progress in mastering the skills of the occupations and the related and supplemental education program may decrease the apprenticeship period for individual apprentices by not more than twelve and one-half (12 ½) percent.

(f) Credit toward the apprenticeship for work experience prior to the apprenticeship may be given by the local apprenticeship program sponsor after verification and/or examination. Credit for partial completion of the education requirements for related and supplemental instruction may be given by the local apprenticeship program sponsor after consultation with the appropriate school authorities concerning the mastery of the related instruction ordinarily required of the apprentices.

(g) In instances where school classes are not available or where attendance will result in an undue hardship on the apprentice, the local apprenticeship program sponsor, after consultation with the appropriate school officials, may make arrangements for acceptance of educational experiences such as home study or correspondence courses as fulfilling the related and supplemental education requirement.

NOTE: Authority cited: Section 3071, Labor Code. Reference: Sections 3071 and 3078, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 235. Scope.

Provisions of this Article apply only to those classes designed to provide related and supplemental instruction for apprentices and offered by local education agencies as authorized under Section 3074 of the California Labor Code.

The provisions of this article apply only in the event that there is a joint agreement between a local education agency and an apprenticeship program sponsor that excess costs incurred by the local education agency in connection with the program sponsored by the apprenticeship program sponsor shall be payable by the apprenticeship program sponsor. These regulations do not mandate such joint agreement. Once such joint agreement is reached, it shall be provided for as set forth in this article.

NOTE: Authority cited: Section 3074, Labor Code. Reference: Section 3074, Labor Code.

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HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 236. Definitions.

For the purpose of this article the following definitions apply:

- (a) LEA (Local Education Agency) means any public education agency authorized by law to provide related and supplemental instruction for apprentices.
- (b) Apprenticeship Program Sponsor means a joint apprenticeship committee, a unilateral apprenticeship committee or a party to a unilateral apprenticeship program where there is no apprenticeship committee established to administer apprenticeship in the occupation, area and industry. In any case the program sponsor must have approved written standards on file with the Division of Apprenticeship Standards.
- (c) Joint Agreement means a written agreement between an LEA and an apprenticeship program sponsor(s) which stipulates the method of calculating the excess costs in accordance with this article and provides for the method of payment of such excess costs, if any, to said LEA by the apprenticeship program sponsor(s).
- (d) Revenue earned means all revenue received by the LEA, as provided by law, for the hours of teaching time devoted to each apprentice enrolled in and attending classes of related and supplemental instruction conducted by the LEA.
- (e) Excess costs means all allowable costs of the LEA for conducting related and supplemental instruction classes that exceed revenue earned by the LEA from the attendance of apprentices in related and supplemental instruction classes or programs.
- (f) Attendance of apprentices means each hour of teaching time for each apprentice enrolled in and attending classes of related and supplemental instruction in accordance with Section 3074 of the Labor Code as reported on forms approved by the Superintendent of Public Instruction or the Chancellor.

NOTE: Authority cited: Section 3074, Labor Code. Reference: Section 3074, Labor Code; and Sections 8152 and 8153, Education Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 237. General Terms and Conditions.

Pursuant to this article:

- (a) Revenue earned and resulting costs of apprenticeship classes will be based on the attendance of apprentices only.
- (b) Any joint agreement shall be completed prior to the beginning of course instruction and shall be reviewed annually, or as mutually agreed upon. Sponsors will be responsible only for those excess costs, if any, generated by their particular apprentices.

NOTE: Authority cited: Section 3074, Labor Code. Reference: Section 3074, Labor Code; and Sections 8152 and 8153, Education Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 238. Calculation of Costs.

The costs of each apprenticeship program conducted by an LEA pursuant to a joint agreement is to be calculated separately.

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(a) The allowable costs of an apprenticeship program will consist of the following as jointly agreed upon:

(1) Direct Costs. Identifiable expenses incurred to conduct the apprenticeship program in the classroom or at its location including instructional salaries and benefits, books and supplies, equipment replacement, contracted services, and capital outlay.

Where the expense is not exclusively for the apprenticeship program, only the prorated portion applicable to the apprenticeship program may be charged.

(2) Direct Support Charges. Identifiable expenses incurred in a support program directly benefitting the apprenticeship program.

Where the expense is not exclusively for the apprenticeship program, only the prorated portion applicable to the apprenticeship program may be charged.

The determination as to what items of direct support are applicable and the method or basis of charging to the apprenticeship program shall be mutually agreed upon and made a part of the joint agreement between the apprenticeship program sponsor(s) and the LEA.

(3) Indirect Support Charges. Identifiable expenses incurred for routine services not performed as a special service for a particular apprenticeship program but supportive of all programs conducted by the LEA.

Where the expense is not exclusively for the apprenticeship program, only the prorated portion applicable to the apprenticeship program may be charged.

The determination as to what items of noninstructional support are applicable and the method or basis of charging indirect support to the apprenticeship program shall be mutually agreed upon and made a part of the joint agreement between the apprenticeship program sponsor(s) and the LEA.

NOTE: Authority cited: Section 3074, Labor Code. Reference: Section 3074, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 239. Determining Excess Costs.

If the costs of an apprenticeship program are greater than the revenue earned, the excess revenue earned from any other apprenticeship program(s) conducted by the LEA must be allocated on a pro rata basis to reduce the excess costs of the remaining program(s). Any excess costs remaining after allocation of any excess revenue earned can be claimed for payment from the apprenticeship program sponsor(s) pursuant to Section 240. If, after allocation of any excess revenue earned, no excess costs remain, no payment is required.

NOTE: Authority cited: Section 3074, Labor Code. Reference: Section 3074, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§ 240. Payment.

Upon the close of the school year or at other such time as may be specified in the joint agreement, all excess costs incurred by the LEA shall be verified to the apprenticeship program sponsor(s) and shall be payable by the apprenticeship program sponsor(s) directly to the LEA in accordance with the joint agreement between such sponsor(s) and the LEA.

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All LEA's providing related and supplemental instruction for apprentices that have executed a joint agreement with an apprenticeship program sponsor(s) shall submit a copy of the agreement and report any excess costs payments received to the Chancellor of the California Community Colleges or Superintendent of Public Instruction, as appropriate, and to the Division of Apprenticeship Standards on forms provided.

NOTE: Authority cited: Section 3074, Labor Code. Reference: Section 3074, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§251. Declaration of Policy

A bona fide state training program is defined as one that is approved by the Division of Apprenticeship Standards as being consistent with Labor Code Sections 3090 and 3093 and the applicable provisions of this Code.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3090 and 3093, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§252. Definitions

(a) "Competent evidence" as used in Section 259 is a transcript or abstract of the records required to be maintained pursuant to Section 255(b)(5), or an attestation by the training program sponsor stating that all training has been fully completed, on forms to be furnished by the Division of Apprenticeship Standards, demonstrating that the training program has been fully completed, certified by the training program sponsor, and endorsed by a representative of the Division of Apprenticeship Standards.

(b) "Training program sponsor" is a joint training committee, a unilateral training committee or the party to a unilateral training program where there is no training committee established or any combination thereof, and may include a school to career partnership.

(c) A "Training Committee" means those persons designated by the sponsor to act for it in the administration of the program.

(d) The term "trainee" means a person at least 16 years of age who has entered into a written agreement called a "trainee agreement" in accordance with Section 3093 of the Labor Code.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3090 and 3093, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§253. Operation of Training Programs

The administration and operation of training programs shall be supervised by a training committee or single employer, which shall approve trainee agreements, adjust disputes and perform such other functions and duties as are agreed to in the training

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standards. A training program is not restricted to a local area of coverage and may provide for local, regional or statewide coverage in its standards.

NOTE Authority cited: Section 3071, Labor Code. Reference: Section 3090, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§254. Training Programs

(a) Bona fide state training programs for other than apprenticeable occupations may be established through the adoption of written training standards by the interested parties, approved by the Division of Apprenticeship Standards.

(b) Application for approval shall be rejected when it is found to be inconsistent, incompatible or in conflict with apprenticeship policies or programs.

(c) To be approved, other on-the-job training programs must meet the following criteria:

(1) The program is for an occupation other than an apprenticeable occupation and is either for workers entering the labor market for the first time or for workers entering new occupations by reason of having been displaced from former occupations by economic, industrial, technological or scientific changes or developments;

(2) Such program is in accord with and agreed to by the parties to any applicable collective bargaining agreement and, where appropriate will include joint employer/employee cooperation;

(3) The training plan, content and duration of the program are adequate to qualify the trainee for the job for which the trainee is to be trained;

(4) There is reasonable assurance that the job for which the trainee is to be trained will be available at the end of the training period;

(5) The job for which the trainee is to be trained is a recognized occupation;

(6) The job for which the trainee is to be trained is one to which appointment is based upon skills and knowledge and not on such factors as length of service;

(7) The job for which the trainee is to be trained customarily requires a period of on-the-job training of not less than three months;

(8) Provision is made in the training standards for (i) vestibule or other pre-job training, if any, or (ii) related and supplemental instruction, if any, either full time before employment or part time combined with the on-the-job training. Related and supplemental classroom instruction, where appropriate, is the responsibility of and will be administered by state and local school boards responsible for vocational education;

(9) There are adequate facilities, equipment, and personnel in the training establishment to provide satisfactory training;

(10) Appropriate credit is given each trainee for previous training and work experience, if any, and wages and, the applicable training period are adjusted accordingly; and

(11) Provision is made for trainees to be selected, employed and trained under fair and impartial procedures without discrimination.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3071 and 3090, Labor Code.

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HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§255. Content of Training Standards

Training programs shall be established by written training standards agreed to by interested employers, employer associations and, if any, by an interested labor union where applicable, and approved by the Division of Apprenticeship Standards, if consistent with these regulations. Training standards may be approved by the Division of Apprenticeship Standards provided they contain the following:

- (a) A statement of the:
 - (1) occupation(s);
 - (2) party or parties to whom the standards apply and the geographic area;
 - (3) definition and duties of the trainee;
- (b) Provisions for:
 - (1) establishment of a training committee, if applicable;
 - (2) administration of the standards;
 - (3) establishment of rules and regulations governing the program;
 - (4) determining the qualifications of employers if other than single employer program;
 - (5) a system to record trainee progress;
 - (6) graduated minimum wage schedule to be paid during the term of training;
 - (7) discipline of trainees, including a description of provisions for fair hearings, if any. Disciplinary measures may include provision for the suspension of a trainee from the training program for a fixed period not to exceed sixty (60) days;
 - (8) termination or recommendation of cancellation of trainee agreements;
 - (9) recommending issuance of a State Certificate of Training;
 - (10) revision of standards;
 - (11) training and education of the trainee in first aid, safe working practices and in the recognition of occupational health and safety hazards;
 - (12) a selection procedure;
 - (13) approval of the standards, and any revision of the standards, by the Division of Apprenticeship Standards.
- (c) The names and signatures of the parties.
- (d) Any apprenticeship committee provided for in this California Code of Regulations may serve as an apprenticeship and training committee to cover both apprenticeship and training programs.

NOTE Authority cited: Section 3071, Labor Code. Reference: Section 3090, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§256 Wages

Training standards and trainee agreements shall contain graduated wage schedules to be paid trainees that provide for reasonable uniform progressive wage increases during the term of training, except where other schedules are provided in applicable collective bargaining agreements, provided that in no case shall a training program be approved with a beginning wage which is lower than the minimum wages fixed by any federal or state law or regulation.

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NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3071 and 3090, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§257. Overtime Provision

Overtime shall not interfere with or impair the training and shall not be detrimental to the health and safety of trainees.

NOTE Authority cited: Sections 3071 and 3093, Labor Code. Reference: Sections 3071 and 3093, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§258. Working Conditions

Trainees shall work under and with competent workers skilled in the occupation for which they are being trained and shall be assigned to working and learning tasks so that they master the on-the-job training provided for in the training standards.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3071, 3090 and 3093, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§259. State Certificates of Training

(a) A "Certificate of Training" attesting to the completion of training will be issued under the authority of the IACA by the Division of Apprenticeship Standards upon request and upon receipt of such competent evidence as may be required by the IACA.

(b) The certificate shall signify completion of training under standards and trainee agreements approved under State Law and these regulations.

(c) Completion of the entire training program by the trainee shall be attested to by the training program sponsor. The training program sponsor will attest to the related and supplemental instruction after consulting with the appropriate school authorities regarding the completion of the educational requirements of related and supplemental subjects.

(d) The certificate is in recognition of completion of training. The certificate may be granted to a trainee only when the trainee:

(1) in addition to credit for previous on-the-job training and related school instruction, which is of an approved nature, shall have completed not less than an additional twelve and one-half (12 1/2) percent of the total training program but not less than a three months as a trainee under these regulations; and

(2) demonstrated to the satisfaction of the training program sponsor mastery of the skills and knowledge of the prescribed program.

(e) The training program sponsor in recognition of unusual ability and progress in mastering the skills of the occupations and the related and supplemental education program may decrease the training period for individual trainees by not more than twelve and one-half (12 1/2) percent.

(f) Credit toward the training for work experience prior to the training may be given by the training program sponsor after verification and/or examination. Credit for partial completion of the education requirements for related and supplemental

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instruction may be given by the training program sponsor after consultation with the appropriate school authorities concerning the mastery of the related instruction ordinarily required of the trainees.

(g) In instances where school classes are not available or where attendance will result in an undue hardship on the trainee, the training program sponsor, after consultation with the appropriate school officials, may make arrangements for acceptance of educational experiences such as home study or correspondence courses as fulfilling the relate and supplemental educational requirement.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3071 and 3093, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§260. Compliance

Selection procedures must be in writing, approved by the training program sponsors, and

(a) Each training program sponsor shall:

(1) file a written copy of its selection procedures with the Chief DAS, which shall:

(A) be signed by the secretary and/or chair of the training committee; or

(B) be signed by the party to a unilateral training program where there is no training committee established; and

(C) signify the date of approval.

(2) provide each applicant making application with a copy of its selection procedure in summary form;

(3) have available for the study and/or perusal of any applicant, at the place(s) applications are accepted, a copy of its complete selection procedure which is on file with the Chief DAS.

(b) The employer, when authorized by the training committee to select the trainee, will have agreed in writing to abide by the standards and selection procedures.

(c) Exemption from this Article may be granted by the Chief DAS for good cause.

Requests for exemption from Article 5, or any part thereof, of this code shall be made in writing to the Chief DAS and shall contain a statement of reasons supporting the request.

NOTE Authority cited: Sections 3071 and 3090, Labor Code. Reference: Sections 3071 and 3091, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§261. Content of Selection Procedures.

Selection procedures shall include such provisions as may be necessary to afford all applicants full and fair opportunity to apply for training and shall be without discrimination on the basis of sex, race, color, religion, ancestry, national origin, disability, sexual orientation, age, political affiliation or creed.

(a) They shall include the following:

(1) Required procedure for making written application.

(2) Procedure for handling applications, that is, the method of dating and recording applications and the acceptance and rejection of applicants and how the applicants are notified of their acceptance or rejection.

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- (3) Required minimum age limitations, if any.
- (4) Required formal education, if any, or equivalency if permitted.
- (5) Required physical examination, if any.
- (6) Procedure for the scheduling of tests and oral interviews, if any.
- (7) Required tests, if any, and by whom they are administered.
- (8) Where applicable, the relative weight given for tests and oral interviews in the overall evaluation of the applicants.
- (9) Procedure for acceptance, rejection and referral of applicants to job openings and how the applicants are so notified.
- (10) Procedure for testing, rating and placing applicants with previous experience in a higher wage bracket (training period).
- (b) Selection procedures shall not include the following:
 - (1) Numerical rating of applicants based on their educational experience in excess of minimum educational requirements.
 - (2) Test designed to determine the skill and knowledge of the occupation itself.
 - (3) A requirement for a driver's license as a condition of accepting or processing an application.
 - (4) A requirement of residency as a condition of accepting or processing an application.

NOTE Authority cited: Sections 3071 and 3090, Labor Code. Reference: Section 3071, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§262. Filing of Complaints.

(a) Any interested person may file a complaint with the Administrator of Apprenticeship or the Administrator of Apprenticeship upon his/her own initiative may issue a complaint, when there is cause to believe that a decision, order or action of a training program sponsor (as defined in Section 252(b)) has been unfair or unreasonable; or that there has been a violation of:

- (1) Chapter 4, Division 3 of the Labor Code;
- (2) California Code of Regulations Title 8, Chapter 2, Part II;
- (3) Training Standards;
- (4) Trainee Agreements;
- (5) Selection Procedures;
- (6) Rules, Regulations or Policies established by a training program sponsor.

(b) Complaints filed with, or by, the Administrator of Apprenticeship shall be filed in writing within ninety (90) days of the date of the alleged violation or within thirty (30) days of a decision by, an order by, or an action of a program sponsor to adjust the matter locally, whichever is latest, and shall contain the following:

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- (1) The full name and address of the party (person, organization, or other party) filing the complaint (hereinafter referred to as the “charging party”).
 - (2) The full name and address of the party (person, organization or other party) against whom the complaint is made (hereinafter referred to as the “respondent”).
 - (3) A clear and concise statement of the facts constituting the alleged complaint.
 - (4) The signature of the person filing the complaint or an authorized officer or agent in the case of an organization, employer, labor union, training program sponsor or other interested party.
 - (5) A declaration by the person signing the complaint, under penalties of law, that its contents are true and correct to the best of his/her knowledge and belief.
- (c) Upon receipt or issuance of a complaint the Administrator of Apprenticeship shall cause a copy of such complaint to be served upon the respondent(s).
- (d) Complaints may be withdrawn only with the consent of the Administrator of Apprenticeship.
- (e) The Administrator of Apprenticeship shall dismiss any complaint when it is found that the controversies or differences concerning the training agreement were adjusted locally or that there are provisions in a collective bargaining agreement for handling such disputes.

§263. Investigations, Holding of Hearings and Determinations.

- (a) The Administrator of Apprenticeship, upon the timely receipt or issuance of a complaint under Section 262, shall investigate the matter to determine whether the complaint has merit, and in the course of such investigations, the Administrator of Apprenticeship may take such steps as he/she deems necessary under the circumstances to bring about an amicable adjustment of the controversy. The Administrator of Apprenticeship shall dismiss any complaint that is not timely filed and may, following an investigation, dismiss any complaint that is found to be without merit. In such cases the Administrator of Apprenticeship shall prepare a statement of his/her findings and determinations and file it with the IACA, and notify all parties in writing in accordance with the Code of Civil Procedure Sections 1013a and 2015.5 of his/her determination to dismiss the complaint.
- (b) If the matter is not dismissed, withdrawn or settled satisfactorily, the Administrator of Apprenticeship shall hold a hearing in accordance with the following procedure:
- (1) He/she shall fix the time and place of the hearing and notify all interested parties not less than two weeks in advance in writing in accordance with the Code of Civil Procedure Sections 1013a and 2015.5 specifying the time and place of the hearing.

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(2) The interested parties shall be given an opportunity to present evidence and oral or written arguments in support of their positions.

(3) The hearing need not be conducted according to technical rules relating to evidence and witnesses.

(4) All witnesses testifying before the Administrator of Apprenticeship shall testify under oath.

(5) A full transcript of the hearing shall be taken by a qualified person.

(c) The Administrator of Apprenticeship or his/her duly authorized representative may conduct the investigation, hold the hearing and decide on the complaint. The Administrator of Apprenticeship may however delegate or authorize a representative only to hold a hearing and to report, reserving the authority to decide on the complaint. In that case, the duly authorized representative shall hold a hearing and submit to the Administrator of Apprenticeship the entire record of the hearing together with his/her written recommendations. The Administrator of Apprenticeship shall read the record and the written recommendations before deciding on the complaint.

(d) In deciding on the complaint, the Administrator of Apprenticeship or his/her duly authorized representative shall prepare a statement of findings of fact, make a decision, file it with the IACA and notify all parties in writing in accordance with the Code of Civil Procedure Sections 1013a and 2015.5 of the decision and of any action taken.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3081, 3082, 3090 and 3093, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§281. Declaration of Policy.

A state approved journey person on-the-job training program is defined as one that is developed by its program sponsor and approved by the Division of Apprenticeship Standards as being consistent with Labor Code Sections 3090 and 3093 and applicable provisions of this Code.

NOTE: Authority cited: Section 3071, Labor Code. Reference: Sections 3090 and 3093, Labor Code.

HISTORY

2. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018

§282. Approval of Training Standards.

(a) Voluntarily developed training standards for journey person on-the-job training programs shall be approved by the Division of Apprenticeship Standards if those standards meet the following criteria:

(1) They are agreed to and submitted in writing by the parties to any applicable collective bargaining agreement, by an employer, an employer association, or a union

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or its representative, and signed by the parties affected.

(2) The program is designed for journeyperson in an apprenticeable occupation to keep them abreast of current techniques, methods and materials and to provide them opportunities for advancement in their industries and does not replace apprentices in approved apprenticeship programs.

(3) The period of training is of not less than three months' duration.

(4) There are adequate facilities, equipment and personnel to provide training.

(5) Provision is made for:

(A) Training in safety and safe practices.

(B) Necessary related and supplemental instruction, where applicable. Related and supplemental instruction will be administered by state and local boards responsible for vocational education.

(C) Adequate supervision and administration of the program.

(D) Adequate records to be kept to show the progress made by each journeyman in training toward the training objective.

(E) Journeyperson in training to be selected, employed and trained under fair and impartial procedures without discrimination on the basis of sex, race, religion, color, ancestry, national origin, disability, sexual orientation, political affiliation, creed or age.

(F) Recommending issuance of State Certificates of Training to journeyperson in training upon successful completion of training, attested to by the journeyworker training program sponsor(s) by competent evidence which is defined as a transcript or abstract of the records required to be maintained pursuant to Section 282(a)(5)(D).

(G) Each journeyworker in training to sign an agreement based on the provisions of the training standards, with a copy filed with the training program sponsor.

(b) Journeyperson on-the-job programs may be administered by a joint training committee, a unilateral training committee or a single employer.

NOTE Authority cited: Section 3071, Labor Code. Reference: Sections 3090 and 3093, Labor Code.

HISTORY

1. Created by Stats 2018 ch 704 § 24 (AB235) effective September 22, 2018