

October 24, 2019

TO: State Arborist Apprenticeship Advisory Committee  
Members & Consultants

FROM: Owen Smith, Bureau of Apprenticeship Standards  
608-266-2491; [owen.smith@dwd.wisconsin.gov](mailto:owen.smith@dwd.wisconsin.gov)

SUBJECT: State Arborist Apprenticeship Advisory Committee Meeting

DATE: Thursday, October 31, 2019

TIME: 10:00 AM

PLACE: Mid-State Technical College, Room I-124  
500 32<sup>nd</sup> St N  
Wisconsin Rapids, WI 54494

#### TENTATIVE AGENDA

1. Call the meeting to order.
2. Introduce the attendees.
3. Review the current roster.
4. **Old Business**
  - a. Follow-up items from previous meeting
    - i. **For action:** approve the draft minutes
    - ii. Expanding the size of the committee in 2020
    - ii. How are the revisions to state Exhibit A and job book working?
    - iv. How are outreach activities proceeding?
    - v. Revisiting the role of the state committee
  - b. DWD letter regarding Industry-Recognized Apprenticeship Programs
  - c. Federal grants to expand "registered apprenticeship"
  - d. Apprenticeship Completion Award Program (ACAP)
  - e. Implementing revisions to CFR 29.30 (AA/EEO requirements)
  - f. Pending revisions to [www.DWD.Wisconsin.gov](http://www.DWD.Wisconsin.gov) and [www.WisconsinApprenticeship.org](http://www.WisconsinApprenticeship.org)
  - g. Other
5. **New Business**
  - a. BAS leadership and personnel changes
  - b. 2019 National Apprenticeship Week

- c. 2021 Biennial Apprenticeship Conference
- d. Other

6. WTCS Update
7. Review the program participants.
8. Schedule the next meeting.
9. Adjourn.

**Draft Minutes of the  
Arborist  
State Apprenticeship Advisory Committee**

**May 14, 2019**

Milwaukee Area Technical College – Mequon Campus  
Mequon, WI

<b>Members Present</b>	<b>Employer / Organization</b>
Hoppe, August	Hoppe Tree Service
Krouse, Randy	City of Milwaukee Forestry
Welch, Jon	Crawford Trees
<b>Members Absent</b>	<b>Employer / Organization</b>
Reince, Ben	Wachtel Tree Service
Sanborn, John	Sanborn Tree Service
<b>Consultants &amp; Guests</b>	<b>Employer / Organization</b>
Abbott, Nick	Bureau of Apprenticeship Standards
Birnschein, Anna	Colonial Tree Service
Harris, Tim	Buckley Tree Service
Johnson, Josh	Bureau of Apprenticeship Standards
Leonard, Betsy	Wisconsin Technical College System
Mayek, Mandy	Mid-State Technical College
Nakkoul, Nancy	Wisconsin Technical College System
Polk, David	Milwaukee Area Technical College
Pusch, Liz	Bureau of Apprenticeship Standards
Rogers, Elton	Milwaukee Area Technical College
Smith, Owen	Bureau of Apprenticeship Standards
Wahl, Brian	WI Dept. of Natural Resources

1. The meeting was called to order at 10:05 a.m. by August Hoppe, Committee Co-Chair, in conformance with the Wisconsin Open Meeting Law.
2. A sign-in sheet was circulated. A quorum was present.
3. The committee reviewed the current roster. The following changes will be made:
  - Current sponsors will be invited to join.
  - One seat will be reserved for a contractor in Madison
  - One current member will send a journey worker to replace its current representative
  - Beginning in 2020, non-sponsors will not be permitted to serve on the committee

#### 4. **Old Business**

##### a. **Review the follow-up items from the previous meeting**

###### i. **For action: approve the minutes from the previous meeting**

The committee approved the minutes as written.

###### ii. **For action: expand the size of the committee?**

The committee supported expanding the size of the committee. The details were discussed during the review of the roster.

###### ii. **For action: revisions to state Exhibit A and job book**

Owen reviewed that the current version of the Exhibit A was implemented in a little more than six months ago. The focus group met to create the companion job book, but the draft resulted in further revisions to the Exhibit A. Bureau policy is to allow programs and policies to be in place one year before revising them further; this allows the Bureau and industry time to gauge their effectiveness and conduct outreach. Successive revisions in a short time confuse outreach efforts.

Owen noted that the Bureau will not hold these revisions to the one-year mark, but it encourages the state committee to now shift its focus to allowing all its policies to be in place for one year. In addition, the Bureau will not approve discuss or approve revisions or new policies outside of state committee meetings.

The committee noted that other states' apprenticeships programs have been waiting for the revised job book so they can adopt it. Owen acknowledged the collaboration, and clarified that the Bureau focuses on Wisconsin's apprenticeship program only; other states have their own stakeholders, procedures, policies, and resources.

A general discussion followed on the job book and the corresponding revisions to the Exhibit A. Owen noted a few minor revisions to the task statements.

***Action: the committee approved all revisions to the Exhibit A and job book; a focus group will reconvene to finalize some of the revisions to the job book; and the Bureau will implement both documents by June 15.***

iv. How are outreach activities proceeding?

Randy Krouse shared that the City of Milwaukee held a day of service with Milwaukee Public Schools in which Arborists removed a tree and demonstrated climbing techniques to high school students. The event attracted local media coverage.

August Hoppe shared that he and other sponsors held an information session on the registered apprenticeship with employers in the Madison area.

Randy Krouse shared that the Arborists received a grant from the Department of Natural Resources for an outreach campaign, "A Career Above Ordinary," which includes a webpage, posters, and fliers.

v. Revisiting the role of the state committee

Owen congratulated the committee on being the first occupation new to registered apprenticeship to achieve significant participation statewide. He applauded the committee for sustaining its outreach efforts over three years. He shared that the committee has become a model for the Bureau to use when developing new registered apprenticeships for other occupations.

He commented that the initial three years of growth required the committee to be meet often and revise the program frequently to increase its accessibility to employers. The committee revised the program once a year for the past three years. Now that the program has been revised to the committee's satisfaction and more employers are using it, he emphasized that the committee must slow its pace to meeting twice a year and making decisions at the meetings, not before. The state committee structure is designed to be as inclusive and representative as possible, and meeting twice a year is an aggressive schedule, considering the number of stakeholders involved.

The state committee agreed and congratulated each other on their success.

**b. Implementing revisions to CFR 29.30 (AA/EEO requirements)**

Josh Johnson reported that the Bureau projects the revisions will be fully implemented by January 2020. Some minor revisions have been implemented under an emergency administrative rule; other revisions and the final version are being finalized by the state legislature and the Governor's Office.

Josh clarified that the minor revisions that have been implemented, such as the non-discrimination pledge, will not have a substantial state or local effect because sponsors already have the same or very similar policies in place. Other minor revisions will continue to be implemented through the year. The Bureau will have further guidance on specific changes and their effects at the fall meeting.

Attendees did not have questions or comments.

**c. Federal grants to expand "registered apprenticeship"**

Josh reported that the Bureau is proceeding very well on its three federal grants: the WAGE\$ grant, the state expansion grant, and the state accelerator grant.

The WAGE\$ grant is nearing completion. It has successfully met nearly all its targets. For example, it helped increase the enrollment of minority apprentices by 10%, which is very good, and developed new apprenticeships in information technology, healthcare, and advanced manufacturing. Information technology may be a very successful endeavor because its occupations work across all other sectors; the Bureau will conduct outreach efforts to recruit IT sponsors and apprentices soon.

Two targets have proved difficult to meet: enrolling apprentices in the first apprenticeships in new industries; and enrolling female apprentices. The first apprenticeships in an industry commonly grow very slowly because employers are either unfamiliar with apprenticeship or need more time to adapt their administrative operations. Recruiting women apprentices has proven historically challenging.

Attendees did not have questions or comments.

**d. 27<sup>th</sup> Biennial Apprenticeship Conference Follow-Up**

Josh reported that the 27<sup>th</sup> Biennial Apprenticeship Conference was an overall success: it drew 375 attendees; included 30 workshops; and received positive feedback on the variety of topics and workshops, especially on career pathway programs such as youth apprenticeship and pre apprenticeship. Many attendees reported, though, that they did not like the venue. The Bureau is planning the 28<sup>th</sup> Biennial Conference for early 2021. The location and venue are pending.

Attendees did not have questions or comments.

**e. Updates to [www.WisconsinApprenticeship.org](http://www.WisconsinApprenticeship.org)**

Josh reviewed many historic updates the Bureau made to its webpage. Foremost, for the first time in its history, the Bureau website features sponsors. The update was made at the request of sponsors because they continue having trouble recruiting qualified applicants. Prior to this, sponsors preferred not to be featured because so they would not receive public inquiries outside of their hiring windows.

Additional updates include the following: three quick search functions on the homepage—by key word, by occupation, and by industry; three distinct navigation boxes based on user group—career seeker, employer, and current apprentices and sponsors; and apprenticeship-specific webpages that feature visual representations of the training information, employment projections, and salary.

Josh encouraged attendees to review their organizations' information, submit updates, and test the site for any potential improvements.

Attendees did not have questions or comments.

**f. Department of Corrections registered apprenticeships**

Josh explained that the Bureau is enhancing registered apprenticeship opportunities within the state's correctional system after an inspiring tour of Ohio's correctional facilities. Wisconsin has 42 apprentices in correctional facilities; Ohio has 2,400.

Josh introduced Liz Pusch, a former Apprenticeship Training Representative now working as the Bureau's Program and Policy Analyst in charge of developing programs with Wisconsin's Department of Corrections (DOC).

Liz summarized several key facts about registered apprenticeships within correctional facilities. First, 90% of offenders are released, so the correctional population is a large talent pool that is worth training and employing. Most programs are offered through minimum security facilities, provide up to 60% of the training in the facility, and then release participants to complete the rest. Many companies currently employ offenders on work release. The Bureau's role is to facilitate partnerships between the DOC and sponsors so the training meets industries' needs and industries see the value of training and employing offenders.

Second, registered apprenticeships are selective opportunities within the facilities; individuals are selected based on aptitude, interest, and parameters of offense.

Third, DOC has trained registered apprenticeships for a while, and this initiative expands on that base. DOC has offered correctional officers, carpenters, horticulturalists, and cooks; DOC then added machining, masonry, and welding; and now it is expanding further into building maintenance and construction, and considering pre-apprenticeships, too. Much of the training is provided through the Wisconsin Technical College System and is the same instruction as apprentices receive.

The state committee commented that the following training would position offenders well:

- Landscaping
- Identifying trees and shrubs
- Obtaining a valid driver's license

**h. Other**

Attendees did not have additional topics.

**5. New Business**

**a. 2019 National Apprenticeship Week**

Josh announced that 2019 National Apprenticeship Week will be held November 10-16. November 11 will be Veterans Day, so the Bureau is planning an event to recognize veterans in apprenticeship. Overall, the Bureau is planning and outreaching the event six months in advance to increase the likelihood that high schools and other partners can attend.

Attendees did not have questions or comments.

**b. BAS personnel changes**

Josh reported the following changes:

- Deb Schanke, Madison Apprenticeship Training Representative (ATR), retired.
- Mary Harrington, federal ATR, retired.
- Mary Pierce, policy analyst, retired.
- Long Vang was hired as the new ATR for Eau Claire.
- Dominique Robinson, former ATR for Racine, was hired as a policy analyst in the Madison office.

Attendees did not have questions or comments.

**c. Other**

Attendees did not have additional topics.

**6. WTCS Update**

Betsy Leonard and Nancy Nakkoul reviewed the written update and the WTCS Apprenticeship Completer Report.

7. Participants included eight sponsors and 43 apprentices with a contract in active or unassigned status on May 1, 2019.
8. The committee asked the Bureau to schedule the next meeting via electronic survey.
9. The meeting adjourned at 12:10 p.m.

*Submitted by Owen Smith, Program and Policy Analyst  
Bureau of Apprenticeship Standards*





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Secretary's Office  
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Tony Evers, Governor  
Caleb Frostman, Secretary

Mr. Patrick Pizzella  
Secretary  
U.S. Department of Labor  
200 Constitution Ave NW  
Washington, DC 202010

Dear Secretary Pizzella:

Thank you for the opportunity to comment on proposed revisions to Notice of Proposed Rule Making 29 CFR 29 Industry Recognized Apprenticeship Program (IRAP).

Since 1911, Apprenticeship has had a revered and honorable history in Wisconsin. When the registered apprenticeship law was passed, three main purposes were given:

- 1) Provide the state's industries with a continual supply of highly skilled workers;
- 2) Provide an additional career opportunity for many of the youth of the state; and
- 3) Service as a protective measure for the people who enter skilled trades.

These three principles are still valid and vital today. From Wisconsin's perspective, IRAP provisions will weaken what Wisconsin Registered Apprenticeship (RA) has built, including the strong and vital premier RA training that services both industry and apprentices.

Wisconsin is opposed to the revision of this rule for several reasons:

- IRAP jeopardizes the apprentices the most, beginning with elimination of a formal apprentice contract, which provides the framework of the program, including work processes, wages, and any other special provisions.
- There is no portable, nationally recognized credential issued upon successful completion of the program. Instead, the credential issued is only recognized by an employer or group of employers in a local or regional area. Due to this lack of transferability, the value of an IRAP credential is far inferior to what is attained through RA.
- Registered apprenticeship rules are formulated and promoted to safeguard the welfare of apprentices, including an emphasis on safety, promotion of uniform training of apprentices, and to promote equal opportunity. Under IRAP, employers certify they are in adherence to safety and EEO rules with no formal review nor approval required. The Standards Recognition Entity appears to lack both definition and enforcement as a replacement for proper oversight.

IRAP will be governed by a distinct set of requirements and quality-assurance processes that will make it easier to adopt. However, the proposed processes risk opening the door to lower-quality programs and introducing risk to a solidified RA system that has demonstrated a guaranteed pathway to the middle class for over 80 years.

Thank you for your consideration. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Caleb Frostman".

Caleb Frostman  
Secretary



## WAGE\$ Apprentices Fall Committee Update September 2019

The Wisconsin Apprenticeship Growth and Expansion Strategies (WAGE\$) grant is a 5-year, \$5 million grant from the US Department of Labor. The purpose is to expand Registered Apprenticeship in Advanced Manufacturing and develop new programs in Information Technology and Health Care. The grant started October 1, 2015, and will conclude September 30, 2020.

WAGE\$ Apprentices by Occupation			
Entered Active Status 10/1/15 - 8/23/19			
Transfers were removed and numbers adjusted			
Occupation Name	Count	Female	Minority
Report Total:	565	36 (8%)	87 (16%)
Industrial Manufacturing Technician	117	15 (13%)	35 (30%)
Maintenance Technician	309	4 (1%)	30 (10%)
Mechatronics Technician	85	2 (2%)	6 (7%)
Welder / Automated Welding and Fabricator	31	0	3 (10%)
Broadband Service Technician	1	0	0
Data Analyst *	0	0	0
IT Service Desk Technician	4	1 (25%)	1 (25%)
Software Developer	2	2 (100%)	0
Cybersecurity	in development		
Medical Assistant	16	12 (75%)	10 (63%)
Pharmacy Technician	in development		
Community Health Worker	in development		
* does not include 2 apprentices being counted by Employ Milwaukee's similar grant			



# All ACAP Reimbursement Requests Processed (Time Period) - Summary

Apprenticeship Completion Award Program (ACAP)

Bureau of Apprenticeship Standards

Division of Employment and Training

9/5/19 09:20 AM

Filters Applied: Determination Date between 7/1/19 and 9/3/19, Fiscal Year(s)= FY20

Type	Fiscal Year	# of RRs	\$Approved	\$Denied
Year One	20		\$22,250.00	\$86,837.76
<b>Year One Totals</b>		<b>98</b>	<b>\$22,250.00</b>	<b>\$86,837.76</b>
Completion	20		\$25,900.57	\$144,741.25
<b>Completion Totals</b>		<b>61</b>	<b>\$25,900.57</b>	<b>\$144,741.25</b>
<b>Report Totals</b>		<b>159</b>	<b>\$48,150.57</b>	<b>\$231,579.01</b>



**ORDER OF THE WISCONSIN  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
CREATING AND ADOPTING RULES**

The Wisconsin department of workforce development adopts the following order *to amend* DWD 295.02 (2) (b) 23.; *to repeal and recreate* ch. DWD 296; and *to create* DWD 295.02 (2) (b) 23. (Note) relating to federal equal employment opportunity standards for apprenticeship programs.

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**Analysis Prepared by the Department of  
Workforce Development**

***Statutes Interpreted***

Statutes interpreted: ch. 106, Stats.

***Statutory Authority***

Section 106.01 (11) (a) and (b), Stats.

***Explanation of Statutory Authority***

An apprenticeship program is a program approved by the department providing for the employment and training of apprentices in a trade, craft, or business that includes a plan containing all of the terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices. The department is authorized to promulgate rules related to provisions to be included in an apprenticeship contract and procedures for approving and for rescinding approval of apprenticeship programs.

***Related Statute or Rules***

Wis. Stats. Ch. 106 – Apprenticeship, Employment and Equal Rights Programs

***Plain Language Analysis***

Chapter DWD 296 (Federal Equal Opportunity Standards for Apprenticeship Programs) is promulgated pursuant to ch. 106, Stats. and prescribes the policies and procedures to promote equality of opportunity in apprenticeship programs registered with the department. This rule repeals and recreates ch. DWD 296 to align with federal regulations (29 CFR 29 and 29 CFR 30) and state statute. Wisconsin is recognized as a state apprenticeship agency organized under 29 CFR 29.13 and is required by federal regulation to incorporate the changes made under 29 CFR 29 and 29 CFR 30.

The U.S. Department of Labor, Office of Apprenticeship, updated 29 CFR 29 and 29 CFR 30 to include regulations that prohibit discrimination in registered apprenticeship programs because of age (40 or older), genetic information, sexual orientation, and disability. These categories are in addition to the existing regulations that prohibit discrimination in registered apprenticeship programs because of race, color, religion, national origin, and sex. Federal regulations also require sponsors to provide equal opportunity in

apprenticeship. State agencies with recognized apprenticeship programs are required to update administration rules to reflect federal regulations.

The rule differs from the current rule by:

- -Creating the definitions "ADA," "affirmative action plan," "apprentice," "EEO," "ethnic group" or "ethnicity," "genetic information," "individual with a disability," journeyworker," "major life activities," "physical or mental impairment," "pre-apprenticeship program," "qualified applicant or apprentice," "reasonable accommodation," "registered," "respondent," "UGESP," and "Wisconsin equal rights division."
- Amending the definition "affirmative action program" to align with federal regulations.
- Repealing the definitions "agency," "commission," "secretary of labor," "minority count," and "female count" because those terms are no longer used in ch. DWD 296.
- Amending the definitions "apprenticeship program," "department," "employer," and "sponsor" to reflect proper citation.

The rule also does all the following:

- Requires sponsors to invite applicants to self-identify as an individual with a disability at various times in the application and hiring process and requires sponsors to make a one-time invitation to apprentices currently in registered apprenticeship programs.
- Improves and clarifies the affirmative steps employers and sponsors shall take to ensure equal opportunity in their registered apprenticeship program.
- Requires sponsors to analyze their workforce and take affirmative actions to employ individuals with a disability.
- Establishes a utilization goal of 7% for individuals with a disability within a sponsor's registered apprenticeship programs.
- Requires sponsors to conduct a workforce analysis by occupation and availability analysis by major occupation group.
- Clarifies certain minimum outreach and recruitment efforts that are required for all sponsors, and additional efforts that sponsors with affirmative action programs will take if they find themselves to be underutilizing members of a protected class.
- Requires a sponsor to assign an individual to oversee the sponsor's equal employment opportunity efforts.
- Allows sponsors to use any method of selecting apprentices that complies with the UGESP, rather than using one of four specified methods under the current rule.
- Requires sponsors to conduct periodic orientation and information sessions for those connected with the registered apprenticeship programs, including anti-harassment training.
- Allows the department to sanction noncompliant sponsors by suspending their right to register new apprentices while they implement corrective affirmative action plans. Under current law, the department is authorized only to deregister noncompliant sponsors.
- Specifies exactly what sponsors are required to do for outreach recruitment.
- Provides more flexibility for sponsors to use any selection method for apprentices, as long as it is not discriminatory. Current rule requires the sponsor to use one of four selection methods.
- Streamlines and simplifies sponsor's obligations while maintaining broad and effective equal employment opportunity protections for applicants or apprentices in a registered apprenticeship program.

The rule provides sponsors 180 days from January 18, 2019 to comply with equal opportunity standards applicable to all sponsors; and, sponsors registering after January 18, 2019, to comply with this obligation upon registration or within 180 from January 18, 2019, whichever is later. In addition, the rule provides sponsors bring their program into compliance with the requirements under this chapter within two years of



January 18, 2018 and sponsors registered after January 18, 2018 shall comply with the requirements within two years after the date of registration.

The update to ch. DWD 295.02 is technical in nature and updates cross references to the new sections in ch. DWD 296.

### ***Summary of, and comparison with, existing or proposed federal regulations***

The rule reflects changes under federal regulations 29 CFR 29 (Labor Standards for the Registration of Apprenticeship) and 29 CFR 30 (Equal Employment Opportunity in Apprenticeship). Prior to an update in January 2017, the federal regulations were last revised in 1978, prohibiting discrimination based on race, sex, color, religion and national origin and requiring sponsors with more than five apprentices to develop and implement a written affirmative action plan for minorities and the inclusion of female apprentices. Currently, these regulations are intended to provide for more uniform training of apprentices and promote equal opportunity in apprenticeship.

### **Comparison with rules in adjacent states**

Minnesota operates a recognized state apprenticeship agency organized under 29 CFR 29.13 (Minn. Stat. Ch. 178). Illinois, Iowa and Michigan have not established state apprenticeship agencies and registered apprenticeship in those states operates under federal law only.

### **Summary of factual data and analytical methodologies**

The department is recognized by the U.S. Department of Labor as a state apprenticeship agency under 29 CFR 29.13. Department staff reviewed state statute and implemented the requirements under 29 CFR 29 and 29 CFR 30 to maintain this recognition.

### **Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis**

The rule will have no significant economic impact on small businesses as defined in s. 227.114 (1), Stats.

### **Anticipated costs incurred by private sector**

Not Applicable.

### **Effect on small business**

The rule will have no significant economic effect on small businesses as defined in s. 227.114 (1), Stats.

## Agency contact person

Questions and comments related to this rule may be directed to:

Karen Morgan, Apprenticeship Bureau Director  
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Division of Employment Training  
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Madison, WI 53707  
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E-Mail: [karen.morgan@dwd.state.wi.us](mailto:karen.morgan@dwd.state.wi.us)

Place where comments are to be submitted and deadline for submission

Karen Morgan, Apprenticeship Bureau Director  
Department of Workforce Development  
Division of Employment Training  
P.O. Box 7972  
Madison, WI 53707  
Telephone: (608) 266-3133  
E-Mail: [karen.morgan@dwd.wisconsin.gov](mailto:karen.morgan@dwd.wisconsin.gov)

Hearing comments were accepted until the public hearing held February 20, 2019.

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**SECTION 1.** DWD 295.02 (2) (b) 23. is amended to read:

DWD 295.02 (2) (b) 23. Compliance with 29 CFR 30, including the equal opportunity pledge prescribed in 29 CFR 30.3 (c) and in s. DWD 296.03 (3); an affirmative action plan complying with s. DWD 296.04; and a method for the selection of apprentices authorized by s. DWD ~~296.05~~ 296.10, or compliance with parallel requirement contained in a state plan for equal opportunity in apprenticeship adopted under ch. DWD 296 and approved by the department. The apprenticeship standards shall also include a statement that the program shall be conducted, operated and administered in conformity with applicable provisions of ch. DWD 296, as amended, or, if applicable, an approved state plan for equal opportunity in apprenticeship.

**SECTION 2:** DWD 295.02 (2) (b) 23. (Note) is created to read:

**Note:** 29 CFR 30.3(c) reads: "**(1)** Each sponsor of an apprenticeship program must include in its Standards of Apprenticeship and apprenticeship opportunity announcements the following equal opportunity pledge:

[Name of sponsor] will not discriminate against apprenticeship applicants or apprentices based on race, color, religion, national origin, sex (including pregnancy and gender identity), sexual orientation, genetic information, or because they are an individual with a disability or a person 40 years old or older. [Name of sponsor] will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, part 30.

**(2)** The nondiscrimination bases listed in this pledge may be broadened to conform to consistent State and local requirements. Sponsors may include additional protected bases but may not exclude any of the bases protected by this part."

**SECTION 3.** DWD 296 is repealed and recreated to read:

### **Chapter DWD 296**

#### **Federal Equal Employment Opportunity Standards for Apprenticeship Programs**

**DWD 296.01 Applicability.** This chapter applies to all sponsors of registered apprenticeship programs under ch. 106, Stats.

**DWD 296.02 Definitions.** In this chapter:

**(1)** "ADA" means the Americans with Disabilities Act, as amended.

**(2)** "Affirmative action plan" means a written tool designed to assist a sponsor in detecting, diagnosing, and correcting any barriers to equal opportunity that may exist in the sponsor's registered apprenticeship program.

**(3)** "Affirmative action program" has the meaning given in 29 CFR 30.4 (a).

**Note:** 29 CFR 30.4 (a) reads: (1) An affirmative action program is designed to ensure equal opportunity and prevent discrimination in apprenticeship programs. An affirmative action program is more than mere passive nondiscrimination. Such a program requires the sponsor to take affirmative steps to encourage and promote equal opportunity, to create an environment free from discrimination, and to address any barriers to equal opportunity in apprenticeship. An affirmative action program is more than a paperwork exercise. It includes those policies, practices, and procedures, including self-analyses, that the sponsor implements to ensure that all qualified applicants and apprentices are receiving an equal opportunity for recruitment, selection, advancement, retention and every other term and privilege associated with apprenticeship. An affirmative action program should be a part of the way the sponsor regularly conducts its apprenticeship program.

(2) A central premise underlying affirmative action is that, absent discrimination, over time a sponsor's apprenticeship program, generally, will reflect the sex, race, ethnicity, and disability profile of the labor pools from which the sponsor recruits and selects. Consistent with this premise, affirmative action programs contain a diagnostic component which includes quantitative analyses designed to evaluate the composition of the sponsor's apprenticeship program and

compare it to the composition of the relevant labor pools. If women, individuals with disabilities, or individuals from a particular minority group, for example, are not being admitted into apprenticeship at a rate to be expected given their availability in the relevant labor pool, the sponsor's affirmative action program must include specific, practical steps designed to address any barriers to equal opportunity that may be contributing to this underutilization.

(3) Effective affirmative action programs include internal auditing and reporting systems as a means of measuring the sponsor's progress toward achieving an apprenticeship program that would be expected absent discrimination.

(4) An affirmative action program also ensures equal opportunity in apprenticeship by incorporating the sponsor's commitment to equality in every aspect of the apprenticeship program. Therefore, as part of its affirmative action program, a sponsor must monitor and examine its employment practices, policies and decisions and evaluate the impact such practices, policies and decisions have on the recruitment, selection and advancement of apprentices. It must evaluate the impact of its employment and personnel policies on minorities, women, and persons with disabilities, and revise such policies accordingly where such policies or practices are found to create a barrier to equal opportunity.

(5) The commitments contained in an affirmative action program are not intended and must not be used to discriminate against any qualified applicant or apprentice on the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability.

(4) "Apprentice" has the meaning prescribed under s. 106.001(1), Stats.

(5) "Department" means the department of workforce development.

(6) "EEO" means equal employment opportunity.

(7) "Employer" has the meaning prescribed under s. 106.001 (5), Stats.

(8) "Apprenticeship program" has the meaning prescribed under s. 106.001 (4), Stats.

(9) "Deregistration" means the voluntary or involuntary cancellation of an apprenticeship program by the department.

(10) "Ethnic group" or "Ethnicity" means any of the following:

(a) Hispanic or Latino - An individual of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

(b) Not Hispanic or Latino.

(11) "Genetic information" means any of the following:

(a) An individual's genetic tests.

(b) The genetic tests of an individual's family members.

(c) The manifestation of disease or disorder in family members of an individual.

(d) An individual's request for, or receipt of, genetic services, or participation in clinical research

that includes genetic services by an individual or a family member of an individual.

(e) The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

(f) Genetic information does not include information about the sex or age of an individual, the sex or age of family members, or information about the race or ethnicity of an individual or family members, or information about the race or ethnicity of an individual or family members that is not derived from a genetic test.

**(12)** “Individual with a disability” means any of the following:

(a) An individual who has a physical or mental impairment that substantially limits one or more major life activities or limits the capacity to work.

(b) An individual who has a record of such impairment.

(c) An individual who is perceived as having such an impairment.

**(13)** “Journeyworker” means an individual who has attained a level of skill, abilities and competencies recognized within an industry as having mastered the skills and competencies required for the occupation.

**(14)** “Major life activities” includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communication, interacting with others, and working. A major life activity also includes the operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

**(15)** “Physical or mental impairment” means any of the following:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting

one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine.

(b) Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(16) “Pre-apprenticeship program” means a training model designed to assist individuals who do not possess the minimum selection criteria established in a program sponsor's apprenticeship standards, as required under this chapter; and, which maintains at least one documented partnership with an apprenticeship program. It involves a form of structured workplace education and training in which an employer, employer group, industry association, labor union, community-based organization, or educational institution collaborates to provide formal instruction that introduces participants to the competencies, skills, and materials used in one or more apprenticeable occupations.

(17) “Qualified applicant or apprentice” means an individual who, with or without reasonable accommodation, can perform the duties of the apprenticeship program for which the individual applied or is enrolled.

(18) “Reasonable accommodation” means any of the following:

(a) Modifications or adjustments to a job application process that enable a qualified applicant or apprentice with a disability to be considered for the position a qualified applicant or apprentice desires.

(b) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified applicant or apprentice with a disability to perform the duties of that position.

(c) Modifications or adjustments that enable a sponsor's apprentice with a disability to enjoy equal benefits and privileges of apprenticeship as are enjoyed by its other similarly situated apprentices without disabilities.

**Note:** Examples of reasonable accommodations include:

1. Making existing facilities used by apprentices readily accessible to and usable by individuals with disabilities.

2. Job restructuring; part-time or modified work schedule; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.
3. To determine the appropriate reasonable accommodation, it may be necessary for the sponsor to initiate an informal, interactive process with the qualified individual in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

(19) "Registered" or "Registration" means the approval of an apprenticeship program by the department.

(20) "Respondent" means the individual or entity identified in a complaint in which discrimination is alleged.

(21) "Sponsor" has the meaning prescribed under s. 106.001 (8), Stats.

(22) "UGESP" means the Uniform Guidelines on Employee Selection Procedures under 41 CFR 60.3.

(23) "Wisconsin equal rights division" means the division of equal rights within the department.

**DWD 296.03 Equal opportunity standards applicable to all sponsors. (1) DISCRIMINATION PROHIBITED.** A sponsor of a registered apprenticeship program shall not discriminate against an apprentice or applicant for apprenticeship on the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability as it relates to any of the following:

- (a) Recruitment, outreach, and selection process.
- (b) Hiring, placement, upgrading, periodic advancement, promotion, demotion, transfer, layoff, termination, right of return from layoff, and rehiring.
- (c) Rotation among work processes.
- (d) Imposition of penalties or other disciplinary action.
- (e) Rates of pay or any other form of compensation or changes in compensation.
- (f) Conditions of work.
- (g) Hours of work and hours of training provided.
- (h) Job assignments.

(i) Leaves of absence, sick leave, or any other leave.

(j) Any other benefit, term, condition, or privilege associated with apprenticeship.

(2) GENERAL DUTY TO ENGAGE IN AFFIRMATIVE ACTION. A sponsor of a registered apprenticeship program shall take affirmative steps to provide equal opportunity in apprenticeship that shall include all of the following:

(a) *Assignment of responsibility.* A sponsor shall designate an individual with appropriate authority in the registered apprenticeship program, to act as an apprenticeship coordinator that is responsible for and accountable for overseeing the registered apprenticeship program's commitment to equal opportunity, including the development and implementation of an affirmative action program under s. DWD 296.04. A sponsor shall provide resources, support and access to leadership to ensure effective implementation. The individual designated under this section shall be responsible for all of the following:

1. Monitoring all registered apprenticeship activity to ensure compliance with the nondiscrimination and affirmative action obligations required in this chapter.
2. Maintaining records required in this section.
3. Generating and submitting reports as required by the department.

(b) *Internal dissemination of equal opportunity policy.* A sponsor shall inform all applicants for apprenticeship, apprentices, and individuals connected with the administration or operation of the registered apprenticeship program of its commitment to equal opportunity and affirmative action obligations. In addition, a sponsor shall require that individuals connected with the administration or operation of the apprenticeship program take the necessary action to aid the sponsor in meeting its nondiscrimination and affirmative action obligations under this section. A sponsor shall do all of the following:

1. Publish the equal opportunity pledge prescribed under sub. (3) in its standards of apprenticeship required in s. DWD 295.02 and in apprentice and employee handbooks, policy manuals, newsletters, or other documents circulated by the sponsor that describe the nature of the sponsorship.
2. Post the equal opportunity pledge required in sub. (3) on bulletin boards, including through electronic media, or any other location accessible to all apprentices and applicants for apprenticeship.



3. Conduct orientation and periodic information sessions for individuals connected with the administration or operation of the registered apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices, to inform and remind individuals of the sponsor's equal employment opportunity policy in the apprenticeship program and provide anti-harassment training required in par. (d) 1.

4. Maintain records necessary to demonstrate compliance with the requirements under this section and provide a copy of these records as requested by the department.

(c) *Universal outreach and recruitment.* A sponsor shall implement all of the following measures to ensure the outreach and recruitment efforts for apprentices extend to all individuals available for apprenticeship within the sponsor's relevant recruitment area without regard to race, sex, ethnicity, or disability:

1. Develop and update on an annual basis, a list of current recruitment sources that generate referrals from all demographic groups within the relevant recruitment area.

**Note:** Examples of relevant recruitment sources include: local workforce investment boards and job centers, community-based organizations, community colleges, vocational, career and technical schools, pre-apprenticeship programs, and federally-funded, youth job-training programs.

2. Provide the name, mailing address, telephone number, and email address for each recruitment source.

3. Provide recruitment sources advance notice, preferably 30 days, of apprenticeship openings to allow recruitment sources the opportunity to notify and refer candidates. This notice shall include documentation of the sponsor's equal opportunity pledge prescribed under sub. (3).

(d) *Maintaining apprenticeship programs free from harassment, intimidation and retaliation.* A sponsor shall develop and implement procedures to ensure apprentices are not harassed because of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability and ensure the registered apprenticeship program is free from intimidation and retaliation as prescribed in s. DWD 296.17. A sponsor shall promote an environment in which all apprentices feel safe, welcomed, and treated fairly and ensure all of the following steps are taken:

1. Provide anti-harassment training to all individuals connected with the administration or operation of the registered apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices. Training shall include participation by trainees and may include attending a training session in person or completing an interactive training online. The training content shall include all of the following:

a. That harassing conduct shall not be tolerated.

b. The definition of harassment and the types of conduct that constitute unlawful harassment on the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information and disability.

c. The right to file a harassment complaint as prescribed under s. DWD 296.14.

2. Ensure all facilities and apprenticeship activities are available without regard to race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability, except that if a sponsor provides restrooms or changing facilities, a sponsor shall provide access to separate or single user restrooms and changing facilities to assure privacy between sexes.

3. Establish and implement procedures to handle and resolve complaints about harassment and intimidation on the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability, and complaints about retaliation for engaging in protected activity under s. DWD 296.17.

(e) *Compliance with federal and state equal employment opportunity laws.* A sponsor shall comply with all applicable federal and state laws and regulations that require equal employment opportunity without regard to race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability. Failure to comply with this chapter, if related to the equal employment opportunity of apprentices or graduates of an apprenticeship program, may result in deregistration or other enforcement actions prescribed under s. DWD 296.15.

(3) EQUAL OPPORTUNITY PLEDGE. A sponsor of a registered apprenticeship program shall include in its standards of apprenticeship and any apprenticeship opportunity announcements, the following equal opportunity pledge:

“*[Enter name of sponsor]* shall not discriminate against apprenticeship applicants or apprentices on the basis of race, color, religion, national origin, sex (including pregnancy and gender identity), sexual orientation, genetic information, or because they are an individual with a disability or a person 40 years old or older. *[Enter name of sponsor]* shall take affirmative action to provide equal opportunity in apprenticeship and operate the apprenticeship program as required under 29 CFR part 30, and the equal employment opportunity rules of the state of Wisconsin.”

(4) COMPLIANCE. (a) A sponsor of a registered apprenticeship program shall comply with the obligations of this subsection within 180 days of January 18, 2019.

(b) A sponsor registering an apprenticeship program after January 18, 2019 shall comply with the obligations under this subsection upon registration or 180 days after January 18, 2019, whichever is later.

(5) NOTICE ON FILING A COMPLAINT. A sponsor shall provide written notice as prescribed under s. DWD 296.14 to all applicants and apprentices on how to file a discrimination complaint.

**DWD 296.04 Affirmative action program. (1) ADOPTION OF AN AFFIRMATIVE ACTION PROGRAM.** (a) A sponsor of a registered apprenticeship program shall develop and maintain an affirmative action program in a written plan, unless any of the following apply:

1. A sponsor provides satisfactory evidence of compliance with an equal opportunity program providing for affirmative action in apprenticeship as prescribed in 29 CFR 30.4 (d) (2).

2. The registered apprenticeship program has fewer than five apprentices, unless such program was adopted to circumvent the requirements of this paragraph.

(b) The components of a written plan shall be developed in accordance with the respective compliance dates and made available to the department upon request.

(2) CONTENTS OF AN AFFIRMATIVE ACTION PROGRAM. An affirmative action program under sub. (1) shall include all of the following:

(a) Utilization analysis for race, sex, and ethnicity as prescribed under s. DWD 296.05.

(b) Establishment of utilization goals for race, sex, and ethnicity as prescribed under s. DWD 296.06.

(c) Utilization goals for individuals with disabilities as prescribed under s. DWD 296.07.

(d) Targeted outreach, recruitment, and retention as prescribed under s. DWD 296.08.

(e) Review of personnel processes as prescribed under s. DWD 296.09.

(f) Invitations to self-identify as prescribed under s. DWD 296.11.

**(3) WRITTEN AFFIRMATIVE ACTION PLANS.** (a) A sponsor that is required to adopt an affirmative action program under sub. (1), shall create and update a written affirmative action plan memorializing and discussing the contents of the program identified under sub. (2).

(b) The initial written affirmative action plan for registered apprenticeship programs existing as of January 18, 2018, shall be completed within 2 years of January 18, 2018. The written affirmative action plan shall be updated every time the sponsor completes workforce analysis required under ss. DWD 296.05 (2) and DWD 296.07 (2).

(c) The initial written affirmative action plan for apprenticeship programs registered after January 18, 2018 shall be completed within 2 years of registration. The written affirmative action plan shall be updated every time the sponsor completes workforce analysis required under ss. DWD 296.05 (2) and DWD 296.07 (2).

**DWD 296.05 Utilization analysis for race, sex, and ethnicity.** **(1) UTILIZATION ANALYSIS.** A utilization analysis provides sponsors with a method for assessing whether possible barriers to apprenticeship exist for particular groups of individuals by determining whether the race, sex, and ethnicity of apprentices in a sponsor's registered apprenticeship program is reflective of individuals available for apprenticeship by race, sex, and ethnicity in the relevant recruitment area. Where significant disparity exists between availability and representation, a sponsor shall be required to establish a utilization goal under s. DWD 296.06.

**(2) ANALYSIS OF APPRENTICESHIP PROGRAM.** A sponsor shall analyze the race, sex and ethnic composition of its apprentice workforce. A sponsor shall group all apprentices in their registered apprenticeship program by occupation title, then for each occupation represented, a sponsor shall identify the race, sex and ethnicity of its apprentices within that occupation.

**(3) SCHEDULE OF ANALYSIS.** A sponsor shall conduct an apprenticeship program workforce analysis at each compliance review and again if three years have passed without a compliance review. The updated workforce analysis shall be compared to the utilization goal established at the sponsor's most recent compliance review to determine if the sponsor is underutilized as prescribed under sub. (6).

**(4) COMPLIANCE DATE.** (a) An existing sponsor of a registered apprenticeship program as of January 18, 2018 shall conduct its first workforce analysis under this section no later than 2 years after January 18, 2018.

(b) A new sponsor registered after January 18, 2018 shall conduct its initial workforce analysis under this section, no later than 2 years after the date of registration.

**(5) AVAILABILITY ANALYSIS.** (a) An availability analysis establishes a benchmark to compare to the demographic composition of a sponsor's apprenticeship program to determine if barriers to equal opportunity may exist in a sponsor's registered apprenticeship program.

(b) Availability is an estimate of the number of qualified individuals available for apprenticeship by race, sex, and ethnicity expressed as a percentage of all qualified individuals available for apprenticeship in a sponsor's relevant recruitment area.

(c) In determining availability, all of the following factors shall be considered for each major occupation group represented in a sponsor's registered apprenticeship program standards:

1. The percentage of individuals who are eligible for enrollment in the registered apprenticeship program within a sponsor's relevant recruitment area broken down by race, sex, and ethnicity.

2. The percentage of the sponsor's employees who are eligible for enrollment in the registered apprenticeship program.

(d) In determining availability, the relevant recruitment area is defined as the geographical area from which the sponsor usually seeks or reasonably could seek apprentices. A sponsor shall identify the relevant recruitment area in its written affirmative action plan under s. DWD 296.04 (3). A sponsor may not draw its relevant recruitment area in a way that would have the effect of excluding individuals based on race, sex, or ethnicity from consideration, and shall develop a brief rationale for selection of that recruitment area.

(e) Availability shall be derived from the most current and discrete statistical information available.

**Note:** Examples of current and discrete statistical information may include census data, data from local job service offices, and data from colleges or other training institutions.

(f) A sponsor, working with the department, shall conduct an availability analysis at each compliance review.

**(6) RATE OF UTILIZATION.** To determine the rate of utilization, a sponsor, working with the department, shall group each occupation title in the registered apprenticeship program by major occupation group and compare the racial, sex, and ethnic representation within each major occupation group to the racial, sex, and ethnic representation available in the relevant recruitment area, as determined in sub. (5). When a sponsor's utilization of women, Hispanics or Latinos, or a particular racial minority group is significantly less than would be reasonably expected given the availability of women, Hispanics or Latinos, or a particular racial minority group for apprenticeship, a sponsor shall establish a utilization goal for the affected group as prescribed under sub. (5). Sponsors are not required or expected to establish goals where no significant disparity in utilization rates have been found.

**DWD 296.06 Establishment of utilization goals for race, sex, and ethnicity.** (1) A sponsor required to establish a utilization goal under s. DWD 296.05 for a particular sex, racial group, or ethnic group in a major occupation in its registered apprenticeship program, working with the department, shall establish a percentage goal at least equal to the availability figure under s. DWD 296.05 (5), for that major occupation group.

(2) A sponsor's determination under s. DWD 296.05 that a utilization goal is required does not constitute a finding or admission of discrimination.

(3) Utilization goals shall serve as objectives or targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work. Utilization goals are used to measure the effectiveness of a sponsor's outreach, recruitment and retention efforts. In establishing utilization goals, all of the following principles shall be applied:

(a) Utilization goals may not include rigid and inflexible quotas that must be met or be considered either a ceiling or a floor for the selection of particular groups as apprentices. Quotas are expressly forbidden.

(b) Utilization goals may not provide a sponsor with a justification to extend a preference to any individual, select an individual, or adversely affect an individual's status as an apprentice, on the basis of that individual's race, sex, or ethnicity.

(c) Utilization goals shall not create set-asides for specific groups and are not intended to achieve proportional representation or equal results.

(d) Utilization goals may not be used to supersede eligibility requirements for apprenticeship. Affirmative action programs prescribed in this chapter do not require sponsors to select an individual who lacks qualifications to participate in the registered apprenticeship program successfully or select a less-qualified person in preference to a more qualified one.

**DWD 296.07 Utilization goals for individuals with disabilities. (1) UTILIZATION GOAL.** The department has established a utilization goal of 7 percent for employment of qualified individuals with disabilities as apprentices for each major occupation group within each sponsor's registered apprenticeship program. The utilization goal established in this paragraph shall act as a benchmark against which a sponsor shall measure the representation of individuals with disabilities in the sponsor's registered apprenticeship program by major occupation group. The goal serves as an equal opportunity objective that is attainable by complying with all of the affirmative action requirements in this chapter.

**(2) UTILIZATION ANALYSIS.** A utilization analysis is designed to evaluate the representation of individuals with disabilities in a sponsor's registered apprenticeship program grouped by major occupation. If individuals with disabilities are represented in a sponsor's registered apprenticeship program in any given

major occupation at a rate less than the utilization goal of 7 percent, the sponsor shall take specific measures prescribed under sub. (6) and (7).

**(3) PROCESS.** A sponsor shall analyze the representation of individuals within their registered apprenticeship program by occupation. A sponsor shall group all apprentices according to occupational titles represented in a sponsor's registered apprenticeship program. For each occupation represented, a sponsor shall identify the number of apprentices with disabilities.

**(4) SCHEDULE OF EVALUATION.** A sponsor shall conduct the apprentice workforce analysis at each compliance review and again when three years have passed without a compliance review. The updated workforce analysis shall be compared to the utilization goal established under sub. (1).

**(5) COMPLIANCE DATE.** (a) A sponsor with a registered apprenticeship program as of January 18, 2018 shall conduct a workforce analysis under this section no later than 2 years after January 18, 2018.

(b) A sponsor registering an apprenticeship program after January 18, 2018 shall conduct its initial workforce analysis under this section no later than 2 years after the date of registration.

**(6) IDENTIFICATION OF PROBLEM AREAS.** When a sponsor, working with the department, determines the percentage of individuals under sub. (3) is less than the utilization goal established under sub. (1), the sponsor shall take steps to determine if impediments to equal opportunities exist and where impediments to equal opportunity exist. In making this determination, a sponsor shall look at the results of its assessment of personnel processes required under s. DWD 296.09 and the effectiveness of its outreach and recruitment efforts required under s. DWD 296.08, if applicable.

**(7) ACTION ORIENTED PROGRAMS.** A sponsor shall undertake action-oriented programs, including targeted outreach, recruitment, and retention activities identified in s. DWD 296.08, designed to correct any problem areas that a sponsor identified pursuant to the review of personnel processes and outreach and recruitment efforts.

**(8) UTILIZATION GOAL RELATION TO DISCRIMINATION.** A determination that a sponsor has not attained the utilization goal established under sub. (1) in one or more major occupation groups does not constitute a finding or admission of discrimination in violation of this chapter.



(9) UTILIZATION GOAL NOT A QUOTA OR CEILING. The utilization goal established under sub. (1) shall not be used as a quota or ceiling that limits or restricts the employment of individuals with disabilities as apprentices.

**DWD 296.08 Targeted outreach, recruitment, and retention. (1) MINIMUM ACTIVITIES**

REQUIRED. A sponsor that has found underutilization and established a utilization goal for a specific group under s. DWD 296.06 or 296.07 shall undertake targeted outreach, recruitment, and retention activities that are likely to generate an increase in applications for apprenticeship and improve retention of apprentices from the targeted group or from individuals with disabilities. A sponsor under this section shall conduct all of the following:

(a) In the written affirmative action plan, identify the specific targeted outreach, recruitment, and retention activities planned for the upcoming program year. These activities shall include all of the following:

1. Distribution of information to organizations serving the underutilized group regarding the nature of apprenticeship, requirements for selection for apprenticeship, availability of apprenticeship opportunities, and the equal opportunity pledge of the sponsor.

**Note:** Examples of these organizations include community-based organizations, local high school, local community colleges, local vocational, career and technical schools, and local workforce system partners including job centers.

2. Advertising openings for apprenticeship opportunities by publishing advertisements in appropriate media which have wide circulation in the relevant recruitment areas.

3. Cooperating with local school boards and vocational education system to develop or establish relationships with pre-apprenticeship programs targeting students from the underutilized group to prepare them to meet the standards and criteria required to qualify for entry into apprenticeship programs.

4. Establishing linkage agreements or partnerships enlisting the assistance and support of pre-apprenticeship programs, community-based organizations, advocacy organizations, or other appropriate organizations, in recruiting qualified individuals for apprenticeship.

(b) Evaluate and document, after every selection cycle for registering apprentices, the overall effectiveness of the activities.

(c) Refine targeted outreach, recruitment, and retention activities as needed.

(d) Maintain records of the targeted outreach, recruitment, and retention activities and records related to the evaluation of these activities.

**(2) OTHER ACTIVITIES.** In addition to the activities in sub. (1), sponsors are encouraged to consider other outreach, recruitment, and retention activities that may assist sponsors in addressing any barriers to equal employment opportunity in its registered apprenticeship program. These activities may include any of the following:

(a) Enlisting the use of journeyworkers from the underutilized group to assist in the implementation of a sponsor's affirmative action program.

(b) Enlisting the use of journeyworkers from the underutilized group to mentor apprentices and to assist a sponsor's targeted outreach and recruitment activities.

(c) Conducting exit interviews of each apprentice who leaves the sponsor's registered apprenticeship program prior to receiving a certificate of completion to understand better why the apprentice is leaving the program and to help shape the sponsor's retention activities.

**DWD 296.09 Review of personnel processes. (1) ANNUAL REVIEW.** A sponsor shall engage in an annual review of its personnel processes to ensure that the sponsor is operating a registered apprenticeship program free from discrimination based on race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, and disability. A review under this section is required regardless of whether a sponsor is underutilized under s. DWD 296.05 and shall include a review of all aspects of the registered apprenticeship program at the program, industry, and occupational level, and include all of the following:

(a) The qualifications for apprenticeship, application, and selection procedures.

(b) Wages.

(c) Outreach and recruitment activities.

- (d) Advancement opportunities.
- (e) Promotions.
- (f) Work assignments.
- (g) Job performance.
- (h) Rotations among all work processes of the occupation.
- (i) Disciplinary actions.
- (j) Handling of requests for reasonable accommodations.
- (k) The program's accessibility to individuals with disabilities, including the use of information and communication technology.

**(2) COMPLIANCE DATE.** (a) A sponsor that has a registered apprenticeship program as of January 18, 2018 shall comply with the obligations under sub. (1) within 2 years of January 18, 2018.

(b) A sponsor registered with the department after January 18, 2018, shall comply with the obligations of sub. (1) within 2 years after the date of registration.

**(3) MODIFICATIONS REQUIRED.** Any necessary modifications identified under sub. (1) shall be integrated into the sponsor's written affirmative action plan to ensure that obligations under this section are met. A sponsor shall include a description of its review in the written affirmative action plan and identify in the written plan any modifications made, or the modifications to be made, to the program as a result of the review.

**DWD 296.10 Selection of apprentices.** (1) A sponsor's procedures for the selection of apprentices shall be included in the written plan for standards of apprenticeship submitted to and approved by the department under s. DWD 295.02.

(2) A sponsor may utilize any method, or combination of methods, for selection of apprentices if the selection method meets the requirements under 29 CFR 30.10 (b).

**Note:** 29 CFR 30.10 (b) requires sponsors to utilize any method or combination of methods for selection of apprentices, provided that the selection method used meet the following requirements:

(1) The selection procedures shall comply with the Uniform Guidelines on Employee Selection Procedures (UGESP) in 41 CFR 60.3, including the requirements to evaluate the impact of the selection procedures on race, sex, and ethnic groups (Hispanic/non-Hispanic or

Latino) and to demonstrate job-relatedness and business necessity for those procedures that result in adverse impact in accordance with the requirements of UGESP.

(2) The selection procedures shall be uniformly and consistently applied to all applicants and apprentices within each selection procedure utilized.

(3) The selection procedures shall comply with title I of the Americans with Disabilities Act and EEOC's implementing regulations under part 1630. This procedure shall not screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test or other selection criteria, as used by the program sponsor, is shown to be job-related for the position in question and is consistent with business necessity.

(d) The selection procedure shall be facially neutral in terms of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, and disability.

**DWD 296.11 Invitation to self-identify as an individual with a disability. (1) PRE-OFFER**

INVITATION. A sponsor adopting an affirmative action program under s. DWD 296.04 shall invite applicants for apprenticeship to inform the sponsor whether the applicant believes they are an individual with a disability as defined in s. DWD 296.02 (12). This invitation shall be provided to each applicant when the applicant applies or is considered for apprenticeship. The invitation may be included with the application materials for apprenticeship but shall be separate from the application.

(2) POST-OFFER INVITATION. Any time after acceptance into the registered apprenticeship program, but before the applicant begins their apprenticeship, a sponsor shall invite the applicant to inform the sponsor whether the applicant believes they are an individual with a disability as defined under s. DWD 296.02 (12).

(3) APPRENTICES. Within the time frame identified under sub. (7) a sponsor shall provide a one-time invitation to each current apprentice to inform that sponsor if the apprentice is an individual with a disability as defined under s. DWD 296.02 (12). A sponsor shall make this invitation using the language and manner prescribed by the U.S. department of labor employment and training administration. A sponsor shall remind apprentices on a yearly basis that the apprentice may voluntarily update their disability status.

**Note:** You can access the U.S. Department of Labor Employment Training Administration resources at <https://www.doleta.gov/oa/eo/tools/disability-self-identification.cfm> or call (866) 487-2365.

(4) VOLUNTARY SELF-IDENTIFICATION FOR APPRENTICES. A sponsor shall not compel or coerce an individual to self-identify as an individual with a disability.

(5) CONFIDENTIALITY. A sponsor shall keep all information on self-identification confidential and shall maintain the information in a data analysis file and not the medical files of individual apprentices as prescribed under s. DWD 296.12 (5). A sponsor shall provide self-identification information to the department as requested and may not use the information except in accordance with this chapter.

(6) OBLIGATION OF SPONSOR. A sponsor under this section is not relieved of its obligation to take affirmative action with respect to applicants and apprentices who identified as an individual with a disability. In addition, a sponsor is not relieved of its liability for discrimination in violation of this section.

(7) COMPLIANCE DATES. (a) A sponsor with a registered apprenticeship program shall begin inviting applicants and apprentices to identify as individuals with a disability under this section no later than 2 years after January 18, 2018. A sponsor shall invite each of its current apprentices to voluntarily inform the sponsor whether the apprentice believes that they are an individual with a disability, as defined under s. DWD 296.02 (12), no later than 2 years after January 18, 2018.

(b) A sponsor registering with the department after January 18, 2018, shall begin inviting applicants and apprentices to identify as individuals with disabilities, as prescribed in this section, no later than 2 years after the date of registration. A sponsor under this section shall also invite each of its current apprentices to voluntarily inform the sponsor whether the apprentice believes that they are an individual with a disability, as defined under s. DWD 296.02 (12), no later than 2 years after the date of registration.

**DWD 296.12 Recordkeeping.** (1) OBLIGATIONS OF SPONSORS. A sponsor shall collect data and maintain adequate records necessary for the department to determine if a sponsor is complying with the requirements of this chapter. At a minimum, records shall include all of the following:

(a) Selection for apprenticeship, including applications, tests and test results, interview notes, the bases for selection or rejection, and any other records required to be maintained under UGESP.

(b) The invitation to self-identify as an individual with a disability provided to applicants and apprentices under s. DWD 296.11.

(c) Information relating to the operation of the registered apprenticeship program, including job assignments in all components of the occupation, promotion, demotion, transfer, layoff, termination, rates

of pay or other forms or compensation, conditions of work, hours of work, hours of training provided, and any other personnel records relevant to complaints filed with the department under s. DWD 296.14 or filed with other enforcement agencies.

(d) Proof of compliance with the requirements under s. DWD 296.03.

(e) Requests for reasonable accommodations.

(f) Any other records pertinent to a determination of compliance with this chapter.

**(2) SPONSOR IDENTIFICATION OF RECORD.** For each record maintained under this chapter, a sponsor shall be able to identify the race, sex, ethnicity, and when known, the disability status of each apprentice. Where possible, a sponsor shall be able to identify the race, sex, ethnicity, and disability status of each applicant to apprenticeship. A sponsor shall supply the information to the department upon request.

**(3) AFFIRMATIVE ACTION PROGRAMS.** A sponsor required under s. DWD 296.04 to develop and maintain an affirmative action program shall retain both the written affirmative action plan under s. DWD 296.04 (3) and documentation of its component elements under ss. DWD 296.05 to DWD 296.09 and DWD 296.11.

**(4) MAINTENANCE OF RECORDS.** All records required under this chapter and any other information relevant to compliance with this chapter, shall be maintained for 5 years from the date of making the record or the date of the personnel action involved, whichever occurs later, and shall be made available as requested by the department or other authorized representative in a form determined by the department, as necessary to determine compliance. Failure to maintain records under this chapter constitutes noncompliance.

**(5) CONFIDENTIALITY AND USE OF MEDICAL INFORMATION.** Any information obtained under this chapter regarding the medical condition or history of an applicant or apprentice shall be collected and maintained on separate forms and in separate medical files, and treated as a confidential medical record, except when any of the following apply:

(a) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the applicant or apprentice and necessary accommodations.

(b) First aid and safety personnel may be informed if the disability might require emergency treatment.

(c) Government officials engaged in enforcement of this chapter, of the laws administered by the U.S. department of labor's office of federal contract compliance programs, or of the ADA, shall be provided relevant information on request.

**(6) ACCESS TO RECORDS.** A sponsor shall allow the department access, during normal business hours, to its places of business for the purpose of conducting on-site EEO compliance reviews, complaint investigations, and inspecting and copying books, accounts and records, including electronic records, and any other material the department deems relevant to the matter under investigation and pertinent to compliance with this chapter. A sponsor shall also provide the department access to these materials, including electronic records, off-site for purposes of conducting EEO compliance reviews and complaint investigations. A sponsor shall provide the department information about all formats, including specific electronic formats, in which the records and other information are available.

**DWD 296.13 Equal employment opportunity compliance review. (1) DEPARTMENT REVIEW.** The department shall conduct EEO compliance reviews to determine if a sponsor is in compliance with this chapter regularly, or when circumstances warrant a review.

**(2) CONDUCT OF COMPLIANCE REVIEWS.** An EEO compliance review may include any of the following:

(a) A comprehensive analysis and evaluation of each aspect of the registered apprenticeship program through off-site reviews.

**Note:** An example of an off-site review may include desk audits of records submitted to the department.

(b) On-site reviews conducted at the sponsor's establishment that may involve examination of records, inspection and copying of documents related to recordkeeping requirements, and interviews with employees, apprentices, journeyworkers, supervisors, managers, and hiring officials.

**(3) NOTIFICATION OF COMPLIANCE REVIEW FINDINGS.** Within 45 business days of completing an EEO compliance review, the department shall present a written notice of compliance review findings to the sponsor. If the compliance review indicates a failure to comply with this chapter, the department shall inform the sponsor in writing and include in the notice all of the following:

- (a) The deficiencies identified.
- (b) How to remedy the deficiencies.
- (c) The timeframe within which the deficiencies must be corrected.
- (d) Enforcement actions that may be taken if compliance is not achieved within the required timeframe.

**(4) COMPLIANCE.** (a) Within 30 days of a sponsor receiving a notice of compliance review with findings that indicate a failure to comply with this chapter, the sponsor shall implement a compliance action plan and notify the department of the plan, or submit a written rebuttal to the findings to the department. A sponsor may request a one-time, 30-day extension.

(b) If the sponsor submits a written rebuttal to the notice of compliance review findings to the department under par. (a), the department may do any of the following:

- 1. Uphold the notice of compliance review findings.
- 2. Modify the notice of compliance review findings in whole or in part.

(c) If the department upholds the notice of compliance review findings after receiving a written rebuttal from the sponsor, the sponsor shall implement a compliance action plan within 30 days of receiving the notice from the department upholding the findings.

(d) A compliance action plan required under par. (a) or (c) shall include, at a minimum, all of the following:

- 1. A specific commitment, in writing, to correct or remediate the identified deficiencies and areas of noncompliance.
- 2. The precise actions to be taken for each deficiency identified.



3. The time period within which the cited deficiencies shall be remedied and any corrective program changes implemented.

4. The name of the individual responsible for correcting each deficiency identified.

(e) Upon the department's approval of the compliance action plan, a sponsor may be considered in compliance under this chapter provided that the compliance plan is implemented.

**(5) ENFORCEMENT ACTIONS.** A sponsor that fails to implement a compliance action plan within the specified timeframes may be subject to an enforcement action under s. DWD 296.15.

**DWD 296.14 Complaints. (1) REQUIREMENTS FOR INDIVIDUALS FILING COMPLAINTS.** (a) If an applicant or apprentice of a registered apprenticeship program believes they have been discriminated against on the basis of race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability with regard to apprenticeship, or been retaliated against in violation of s. DWD 296.17, the applicant or apprentice of a registered apprenticeship program, or the applicant's or apprentice's authorized representative, may file a written complaint with the department.

(b) A complaint under par. (a) shall be filed within 300 days of the alleged discrimination or failure to follow the equal opportunity standards. The department may extend the filing time for good cause shown. The time period for filing is for the administrative convenience of the department and does not create a defense for the respondent.

(c) Each complaint filed under par. (a) shall be made in writing and contain all of the following information:

1. The applicant's or apprentice of a registered apprenticeship program's name, address, and telephone number, including best method of contact.

2. All available information to identify the respondent including name, address, and telephone number.

3. A short description of the events that the applicant or apprentice of a registered apprenticeship program believes are discriminatory or a failure to follow equal opportunity standards. The description shall

include the date and location the events took place, and why the applicant or apprentice believes the actions were discriminatory or a failure to follow equal opportunity standards.

4. The applicant's or apprentice's signature, or the signature of the applicant's or apprentice's authorized representative.

**(2) REQUIREMENTS OF SPONSORS.** A sponsor of a registered apprenticeship program shall provide written notice to all applicants and apprentices of a registered apprenticeship program of their right to file a complaint and identify the procedures to file. The notice shall include the name, address, and telephone number of the department and shall be provided in the application for apprenticeship and displayed in a prominent, publicly available location where all apprentices can see the notice. The notice shall include the following specific wording:

**Your Right to Equal Opportunity.** It is against the law for a sponsor of an apprenticeship program registered for Federal purposes to discriminate against an apprenticeship applicant or apprentice based on race, color, religion, national origin, sex, sexual orientation, age (40 years or older), genetic information, or disability. The sponsor must ensure equal opportunity with regard to all terms, conditions, and privileges associated with apprenticeship. If you think that you have been subjected to discrimination, you may file a complaint within 300 days from the date of the alleged discrimination or failure to follow the equal opportunity standards with [INSERT NAME OF REGISTRATION AGENCY, ADDRESS, PHONE NUMBER, EMAIL ADDRESS, AND CONTACT NAME OF INDIVIDUAL AT THE REGISTRATION AGENCY WHO IS RESPONSIBLE FOR RECEIVING COMPLAINTS]. You may also be able to file complaints directly with the EEOC, or the Wisconsin equal rights division. If those offices have jurisdiction over the sponsor/employer, their contact information is listed below. [INSERT CONTACT INFORMATION FOR EEOC AS PROVIDED ON "EEO IS THE LAW POSTER," AND CONTACT INFORMATION FOR THE WISCONSIN EQUAL RIGHTS DIVISION AS PROVIDED ON THE WISCONSIN EQUAL RIGHTS DIVISION POSTER, AS APPLICABLE]

Each complaint filed must be made in writing and include the following information:

1. Complainant's name, address and telephone number, or other means for contacting the complainant;
2. The identity of the respondent (*i.e.* the name, address, and telephone number of the individual or entity that the complainant alleges is responsible for the discrimination);
3. A short description of the events that the complainant believes were discriminatory, including but not limited to when the events took place, what occurred, and why the complainant believes the actions were discriminatory (for example, because of his/her race, color, religion, sex, sexual orientation, national origin, age (40 or older), genetic information, or disability);
4. The complainant's signature or the signature of the complainant's authorized representative.

(3) REQUIREMENTS OF THE DEPARTMENT. (a) Complaints received by the department under sub. (1) shall be processed as expeditiously as possible. When conducting complaint investigations, the department shall do all of the following:

1. Provide written notice to the applicant or apprentice of a registered apprenticeship program, acknowledging receipt of the complaint.

2. Contact the applicant or apprentice of a registered apprenticeship program to obtain additional information, if necessary to initiate an investigation.

3. Initiate an investigation upon receiving a complete complaint.

4. Conduct a thorough investigation of the allegations in the complaint and document, at a minimum, all of the following:

- a. Name, address, and telephone number of each individual interviewed.
- b. Interview statements.
- c. Copies, transcripts, or summaries of pertinent documents.
- d. A narrative report of the investigation with references to exhibits and other evidence related to the alleged violations.

5. Provide written notification of the department's findings to both the respondent and applicant or apprentice of a registered apprenticeship program.

(b) If the department finds a violation of the nondiscrimination requirements under this chapter, the department shall attempt to resolve the matter as quickly as possible at the department level. If a complaint of discrimination cannot be resolved to the satisfaction of the applicant or apprentice, the department shall refer the complaint to other federal, state, or local EEO agencies.

(c) At its own discretion, the department may refer a complaint to any of the following:

1. The United States equal employment opportunity commission.
2. The United States attorney general.
3. The department of labor's office of federal contract compliance programs.
4. The Wisconsin equal rights division.

**DWD 296.15 Enforcement actions.** (1) If the department determines that a sponsor is not operating its registered apprenticeship program as specified under this chapter because of a compliance review, complaint investigation or other reason, the department shall notify the sponsor in writing and identify the specific violations.

(2) The department may take enforcement action if a violation under sub. (1) occurs, including any of the following:

(a) Offering the sponsor technical assistance to promote compliance.

(b) 1. Suspending the sponsor's right to register new apprentices if the sponsor fails to implement a compliance action plan to correct the violation identified within 30 business days from the date the sponsor is notified, or if the sponsor submits a written response to the findings of noncompliance and fails to implement a compliance action plan within 30 days of receiving the department notice upholding the initial noncompliance findings.

2. If a sponsor has not implemented a compliance action plan within 30 business days of notification of suspension, the department may begin proceedings to deregister the sponsor's registered apprenticeship program as prescribed under s. DWD 295.21. If the department does not begin proceedings to deregister the sponsor's program under this paragraph within 45 days of the start of the suspension, the suspension is lifted.

(c) Taking other action authorized by law that may include referral to any of the following:

1. The United States equal employment opportunity commission.

2. Wisconsin equal rights division.

3. The U.S. department of labor's office of federal contract compliance programs.

**DWD 296.16 Appeal procedure.** A sponsor that is deregistered by the department under s. DWD 296.15 (2) (b) 2., may request a hearing as prescribed under s. DWD 295.23.

**DWD 296.17 Intimidation and retaliation prohibited.** (1) An applicant or apprentice in a registered apprenticeship program shall not be intimidated, threatened, coerced, retaliated against, or discriminated against because the individual has done any of the following:

(a) Filed a complaint under s. DWD 296.14.

(b) Opposed a practice prohibited by this chapter or any other federal or state equal opportunity law.

(c) Furnished information to, assisted or participated in any investigation, compliance review, proceeding, or hearing under this chapter or any federal or state equal opportunity law.

(d) Exercised any rights and privileges under the provisions of this chapter.

(2) A sponsor that permits the intimidation of or retaliation against an applicant or apprentice in a registered apprenticeship program, including intimidation or retaliation by participating employers, is subject to enforcement action under s. DWD 296.15 if the sponsor fails to take appropriate steps to prevent the intimidation or retaliation.

**DWD 296.18 Reinstatement of program registration.** An apprenticeship program that has been deregistered for failure to comply with this chapter may be reinstated if the sponsor provides evidence to the department that the apprenticeship program is operating as prescribed in this chapter.

**DWD 296.19 Exemptions.** A sponsor may request an exemption from any part of this chapter by providing the department with a written statement that identifies the reasons to support the request. With approval from the U.S. department of labor's office of apprenticeship, the department may grant an exemption in writing for good cause.

**SECTION 4. EFFECTIVE DATE.** This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided under s. 227.22 (2) (intro.), Stats.

Signed this 22<sup>nd</sup> day of August 2019.


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Caleb Frostman, Secretary - Designee






## Crosswalk of Significant Changes to the Apprenticeship EEO Regulations (DWD 296)

Topic	Previous Regulation	New Regulation 
<b>Terms defined in the regulation</b>	Defined only 11 terms: "Agency," "Department," "Employer," "Sponsor," "Secretary," "Commission," "Apprenticeship program," "Secretary of labor," "Minority count," "Deregistration," and "Registration."	<p>Adds a number of other defined terms to the regulation for greater clarity.</p> <p>Several of these new defined terms are related to the new regulation's protection of discrimination on the basis of disability: "individual with a disability," "major life activities," "physical or mental impairment," "reasonable accommodation" and "ADA". The new regulation also defines other terms related to the bases protected from discrimination, including: "ethnicity" and "genetic information."</p> <p>Additionally, the new regulations include definitions for "journeyworker," "pre-apprenticeship program," "qualified applicant or apprentice," "registered," "respondent," "UGESP," and "Wisconsin equal rights division."</p>
<b>Protected bases for non-discrimination</b>	Prohibited discrimination on the basis of race, color, religion, national origin, or sex	Adds age, disability, sexual orientation, and genetic information as additional protected bases. These bases must be included in the sponsor's equal opportunity pledge that is included in its Standards of Apprenticeship. Also clarifies that sex discrimination includes discrimination on the bases of pregnancy and gender identity.
<b>General obligation to take affirmative action to provide equal opportunity</b>	Included a broad obligation to "take affirmative action to provide equal opportunity," without further guidance on how to comply.	<p>Clarifies four specific actions that sponsors must undertake to meet this obligation, many of which are taken from the previous regulation or are otherwise current practices of sponsors:</p> <ol style="list-style-type: none"><li>1. Designate an individual (or individuals) to be responsible for overseeing the sponsor's commitment to equal opportunity;</li><li>2. Distribute the sponsor's equal employment opportunity policy internally;</li><li>3. Engage in outreach and recruitment efforts designed to extend to all persons available for apprenticeship without regard to race, sex, ethnicity, or disability; and</li><li>4. Maintain an apprenticeship program free from harassment, intimidation, and retaliation</li></ol>

Topic	Previous Regulation	New Regulation
<b>Outreach and recruitment obligation</b>	Required outreach and positive recruitment as part of a sponsor's AAP, listing 10 activities, of which sponsors were required to undertake a "significant number."	<p>Clarifies the obligation, so that all sponsors must engage in three outreach and recruitment activities to generate referrals across demographic groups within the relevant recruitment area:</p> <ol style="list-style-type: none"> <li>1. Develop and update a list of recruitment sources (examples are included in the new regulation);</li> <li>2. Identify a contact at each of these sources;</li> <li>3. Provide recruitment sources with advance notice of apprenticeship openings (preferably 30 days) so they can notify and refer candidates.</li> </ol> <p>Additionally, for those sponsors required to maintain an affirmative action program (AAP) and who are underutilized in a particular group and must set utilization goals (or otherwise find impediments to EEO for individuals with disabilities), the new regulation requires additional targeted outreach and recruitment activities, including:</p> <ol style="list-style-type: none"> <li>1. Sending information regarding apprenticeship opportunities to organizations serving the underutilized groups, which could include community based organizations; local high schools, community colleges, and vocational, career and technical schools; and One Stop Career Centers;</li> <li>2. Advertising apprenticeship opportunities in appropriate media;</li> <li>3. Cooperation with local school boards and vocational education systems to develop relationships with pre-apprenticeship programs targeting students from the underutilized groups; and</li> <li>4. Establishing agreements or partnerships with appropriate organizations to recruit additional qualified individuals for apprenticeship.</li> </ol>
<b>Anti-harassment obligations</b>	Included no specific affirmative steps addressing anti-harassment, aside from the general prohibition against discrimination	<p>Requires the following actions to ensure that apprentices are not harassed because of their race, color, religion, national origin, sex, sexual orientation, age, genetic information, or disability:</p> <ol style="list-style-type: none"> <li>1. Provide anti-harassment training to all individuals connected with the administration and operation of the program, including apprentices, that includes: a statement that harassing conduct will not be tolerated; a definition of harassment and types of conduct that constitute unlawful behavior; and information on how to file a complaint alleging harassment</li> <li>2. Making all facilities and apprenticeship activities available without regard to any of the protected bases; and</li> <li>3. Establishing and implementing procedures for handling and resolving complaints</li> </ol>



Topic	Previous Regulation	New Regulation
<b>Scope and review schedule for the AAP</b>	<p>Affirmative action plans covered race, sex, and ethnicity.</p> <p>Establishing and implementing procedures for handling and resolving complaints</p>	<p>Retains these categories and adds disability to the AAP.</p> <p>One element of the AAP under the new regulation – the review of personnel processes – must be reviewed annually. However, all other elements of the AAP have a longer time between required updates, generally scheduled to occur in conjunction with the sponsor’s compliance reviews to allow for the Bureau of Apprenticeship Standards (BAS) to assist the sponsor with compliance.</p>
<b>Race/Sex/Ethnicity analyses and utilization goals required in the AAP</b>	<p>Required sponsors to:</p> <ol style="list-style-type: none"> <li>1. conduct a utilization analysis comparing the incumbent apprenticeship workforce to the availability in the sponsor’s labor market, for minorities and women, to determine if deficiencies in its program existed;</li> <li>2. set utilization goals, and timetables for meeting those goals, for increasing utilization where needed; and</li> <li>3. make good faith efforts to meet its goals and timetables, without further guidance on what specific activities constituted good faith efforts.</li> </ol>	<p>Retains the same general structure of the previous regulation with regard to race, sex, and ethnicity analyses and goal-setting, with the following changes made largely to provide greater clarity to and less burden on sponsors:</p> <ol style="list-style-type: none"> <li>1. Specifying that the workforce shall be analyzed by occupation, and availability analyzed by major occupation group;</li> <li>2. A simpler utilization analysis that must consider two factors (rather than five in the previous regulation) when analyzing availability;</li> <li>3. For purposes of determining availability, replacing the description “[individuals] with present or potential capacity for apprenticeship,” with “individuals who are eligible for enrollment in the apprenticeship program;”</li> <li>4. Requires analysis and goal-setting by individual race/ethnicity, rather than by minorities collectively, to better target what type of underutilization is taking place</li> <li>5. Explicit language that Registration Agencies will assist sponsors in completing their utilization analysis; and</li> <li>6. For those sponsors required to set utilization goals, a specific list of four targeted outreach, recruitment, and retention activities that must be undertaken in an effort to meet these goals</li> </ol>
<b>Disability analyses and utilization goals required in the AAP</b>	<p>Disability was not included in the previous regulation.</p>	<p>Establishes an aspirational utilization goal of 7% for employment of qualified individuals with disabilities as apprentices for each major occupation group within the apprenticeship program.</p> <p>In order to ascertain whether this goal is being met, sponsors are required to invite self-identification as an individual with a disability to applicants considered for apprenticeship (pre-offer) and to those entering the program (post-offer).</p> <p>If the sponsor does not meet the utilization goal, it must take steps to determine if there are any impediments that might explain the failure to meet the goal. If so, the sponsor must take action (including targeted outreach, recruitment, and retention actions listed in outreach and recruitment obligation, above) to eliminate these impediments.</p>

Topic	Previous Regulation	New Regulation 
<b>Selection procedures</b>	Required the sponsor to use one of four proscriptive selection procedures, each of which included its own detailed set of requirements for compliance.	Simplifies procedures for selecting apprentices, eliminating the four proscriptive categories and allowing sponsors to adopt any selection procedure or procedures so long as they comply with established legal authorities (including the Uniform Guidelines on Employee Selection Procedures and the Americans with Disabilities Act, as amended), are uniformly and consistently applied, and are facially neutral in terms of the bases protected by the rule (race, color, religion, national origin, sex, age, disability, sexual orientation, genetic information).
<b>Compliance reviews</b>	Provided that BAS will regularly conduct compliance reviews of apprenticeship programs and that sponsors seeking reregistration or new registration will be subject to a compliance review.	Provides further detail regarding how compliance reviews will be conducted, including how and when sponsors will be notified of compliance review findings, to ensure greater consistency and standardization of procedures across the registered apprenticeship system. The new regulation also provides greater detail and clarity on what is expected of sponsors that receive a notice of non-compliance, including the timetables for responses and what a compliance action plan must include.
<b>Complaints</b>	Provided that apprentices or applicants for apprenticeship could file a complaint with BAS or a private review body, setting time limits for doing so. Also provided how BAS would investigate a complaint depending on with whom it was filed.	<p>Deletes provisions concerning private review bodies, as they appear to be obsolete; all complaints are to be filed with BAS.</p> <p>Requires that complaints must be filed within 300 days of the alleged unlawful act.</p> <p>Requires that sponsors provide written notice to all applicants for apprenticeship and apprentices of their right to file a discrimination complaint with BAS, including the procedures for doing so and required wording for the notice.</p> <p>Provides requirements for BAS to follow in their thorough investigation of the complaint, including written notification of findings to the complainant and respondent. If the findings indicate discrimination, BAS should attempt to resolve the matter quickly at the agency level whenever appropriate; if the complaint cannot be resolved to the complainant's satisfaction, or if BAS otherwise deems it appropriate, the complaint shall be referred to other federal or state agencies with jurisdiction over the matter.</p>

Topic	Previous Regulation	New Regulation
<b>Enforcement actions</b>	Provides that when BAS has reasonable cause to believe that an apprenticeship program is not operating in accordance with DWD 296, BAS will initiate deregistration proceedings or refer the matter to the EEOC or the Wisconsin Equal Rights Division with a recommendation to initiate a court action.	Provides for additional mechanisms to promote compliance before heading directly to deregistration proceedings, including: <ol style="list-style-type: none"> <li>1. Offering technical assistance that will promote compliance; and</li> <li>2. Suspending, for a limited period, the sponsor's right to register new apprentices if the sponsor fails to correct specific violations noticed by BAS. If after 30 days the sponsor has not come into compliance, BAS may then institute deregistration proceedings;</li> <li>3. Referring the matter to other federal or state agencies with jurisdiction over the matter</li> </ol> Otherwise, the new rule adopts the deregistration procedures set forth in DWD 295 for consistency.
<b>State Apprenticeship Agencies (SAA)</b>	Required that State Apprenticeship Councils (SACs) adopt State Plans consistent with Part 30 and provided procedures for withdrawal of recognition for failing to do so.	Consistent with DWD 295, the new regulation does not include SACs as entities eligible for recognition. As provided for in 29 CFR 29.13, the Office of Apprenticeship will only recognize an SAA that complies with specified requirements.  The rule requires that, within 1 year of the effective date (barring an exemption for good cause granted by the Administrator of OA), an SAA seeking recognition must submit a State EEO plan that: <ol style="list-style-type: none"> <li>1. Includes, at a minimum, State apprenticeship legislation corresponding to the requirements of this regulation; and</li> <li>2. (Requires apprenticeship programs to comply with the regulations within 180 days of approval of the State plan by the OA)</li> </ol>





# EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP

## Quick Guide to EEO Activities and Resources for Sponsors

In 2016, the U.S. Department of Labor released updated Equal Employment Opportunity (EEO) regulations for Registered Apprenticeship programs, Title 29 Code of Federal Regulations Part 30. Wisconsin followed suit with the passage of administrative rule DWD 296, which first went into effect in January 2019 and was finalized by the state legislature in October 2019.

The implementation timeline of the new EEO regulations is staggered. The first phase of regulations affects all sponsors, while **the second phase of regulations focuses on affirmative action plans and only affects those sponsors who have five or more apprentices.**

Apprenticeship sponsors registered with the Bureau of Apprenticeship Standards (BAS) can use this guide to track their responsibilities under the revised apprenticeship EEO regulations. The guide lists the activities to be carried out by sponsors, organized by the dates on which the provisions go into effect. Each relevant section of the state EEO regulations is listed for reference. The guide also denotes whether state or federal resources and tools are available to assist sponsors with execution of the EEO regulations. As BAS develops further guidance and continues implementation and enforcement of DWD 96, it will update this guide.

## PROVISIONS IN EFFECT July 17, 2019

Topic	Activity	Resources
Selection procedures	Sponsors are permitted to use any procedures for selecting apprentices that are not discriminatory. ~ [Section 296.10]	● <a href="#">Resources to Identify Non-discriminatory Apprentice Selection Procedures</a>
Complaint procedures	Begin posting notice to all applicants and apprentices of their right to file a discrimination complaint and the procedures for doing so. Also include information about filing a complaint in applications for apprenticeship. ~ [Section 296.14]	● <a href="#">EEO Complaints</a>



## PROVISIONS IN EFFECT July 17, 2019

Topic	Activity	Resources
<i>Non-discrimination: Expanded characteristics</i>	Add new characteristics – disability, age (40 and older), sexual orientation, and genetic information – to protection from discrimination involving all personnel practices.  ~ [Section 296.03(1)]	● <a href="#"><u>Protected Characteristics Guide</u></a>
<i>Oversight of EEO</i>	Assign responsibility for overseeing EEO in the apprenticeship program.  ~ [Section 296.03(2)(a)]	
<i>Display of Updated EEO Pledge</i>	Inform all apprentices and apprenticeship applicants of the organization's commitment to EEO by posting and publishing the updated EEO pledge.  ~ [Section 296.03(2)(b)]	● <a href="#"><u>EEO Pledge and Complaints Poster</u></a>
<i>Outreach and recruitment</i>	Implement outreach and recruitment measures, such as developing a list of recruitment sources, that extend to all persons available for apprenticeship in the recruitment area.  ~ [Section 296.03(2)(c)]	● <a href="#"><u>Outreach and Recruitment Resources</u></a>
<i>Anti-harassment training</i>	Provide anti-harassment training to apprentices, journeyworkers and others who regularly work with apprentices. This training may be provided in conjunction with other training planned by the sponsor.	● <a href="#"><u>Anti-Harassment Training Materials</u></a>
<i>Harassment/intimidation complaints</i>	Implement procedures to handle and resolve complaints of harassment and intimidation.  ~ [Section 296.03(2)(d)]	

## PROVISIONS IN EFFECT JANUARY 18, 2020\*

### Affecting Sponsors with 5 or more Apprentices

Topic	Activity	Resources
<i>Initial review of personnel practices</i>	Conduct an initial review of the apprenticeship program's personnel practices. Update, as needed, to meet requirements, and review practices annually thereafter. ~ [Section 296.09]	
<i>Initial written affirmative action plan</i>	Develop and maintain a written affirmative action plan. ~ [Section 296.04]	● Under Development by DOL
<i>Initial workforce analysis</i>	Conduct a workforce analysis to identify the race, sex, ethnicity and disability status of apprentices for each of the program's occupations. ~ [Section 296.05]	● Under Development by DOL
<i>Begin invitation for self-identification of disability</i>	Applicants for apprenticeship and current apprentices must be invited to self-identify whether they are an individual with a disability. ~ [Section 296.11]	● <a href="#"><u>Disability Self-Identification Form</u></a>  ● <a href="#"><u>Letter to Self-Identify Disability</u></a>

\* **New sponsors** that register with the Office of Apprenticeship will have two years from their date of registration to implement these provisions.

## PROVISIONS IN EFFECT AT SPONSOR'S FIRST COMPLIANCE REVIEW AFTER JANUARY 18, 2017

### Affecting Sponsors with 5 or more Apprentices

Topic	Activity	Resources
<i>Utilization and availability analyses for race, sex and ethnicity</i>	Determine whether the race, sex and ethnicity of apprentices – by major occupational group – reflects the racial, sex and ethnic representation of available individuals in the relevant recruitment area.  ~ [Section 296.05]	● <i>Under Development</i>
<i>Utilization goal (if necessary) for race, sex and ethnicity</i>	Where analysis shows the program's inclusion of minorities and women is significantly less than would be expected, based on their availability in the recruitment area, the sponsor must establish a percentage goal at least equal to the availability figure derived from the analysis.  ~ [Section 296.06]	● <i>Under Development</i>
<i>Utilization analysis for individuals with disabilities</i>	If individuals with disabilities are represented in the sponsor's apprenticeship workforce at a rate less than the national goal of 7%, sponsor must take steps (such as targeted outreach, recruitment and retention activities) to correct any impediments to equal opportunity.  ~ [Section 296.07]	● <i>Under Development</i>
<i>Targeted outreach and recruitment</i>	Conduct targeted outreach, recruitment and retention activities, where underutilization of a specific group or groups is identified and utilization goals are established, or where impediments to equal opportunity exist.  ~ [Section 296.08]	● <u>Outreach and Recruitment Resources</u>





## **WTCS System-Wide Activity Update September 2019**

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### **Wisconsin Fast Forward Awards \$250,000 to the WTCS to Support Apprenticeship Instruction**

In recognition of the rapid expansion of apprenticeship programs in Wisconsin, the WTCS will administer Wisconsin Fast Forward grant funds as sub-grants to WTCS Colleges to supplement instructional costs where need has outpaced projected growth. Funds will be available from January 2019-December 2020.

### **WTCS Apprenticeship Enrollment Trend**

WTCS enrollments across all apprenticeship programs increased from 6903 to 7588 unduplicated, and 7450 to 7696 duplicated, students by the end of 2018-2019 academic year. That is a 9.9% and 3.3% increase, respectively, in one year.

### **Great Lakes Higher Education Corporation (under new corporate name Ascendium Education Group) Tools of the Trade Scholarships**

Ascendium Education Group will again award 200, \$1500 scholarships for industrial and construction sector apprentices in Fall 2019.

### **Active WTCS-BAS Apprenticeship Programs, By Sector, Occupation, and College as of January 2019**

The master chart of all apprenticeship programs with related instruction offered through the WTCS colleges can be found here via the following link. "Active" is defined as approved programs with enrollments in the past two years. The color-coded chart can be found on the MyWTCS website here:

<https://mywtcs.wtcsystem.edu/wtcsinternal/cmsspages/getdocumentfile.aspx?nodeguid=2b3fe9c1-681d-4ceb-a612-f474b04aaa8b>



**Report Name** COM-01 State Committee  
Report - Industrial & Service  
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Wisconsin Bureau of Apprenticeship Standards

## State Committee Report State Arborist Committee



This summary counts employers and apprentices with a contract active or unassigned on 10/15/2019 in trade(s) associated with this committee.

Report is based on apprentice contracts where:

- Status is 'Active' or 'Unassigned'.
- Contract sector is 'Industrial' or 'Service'.
- Contract trade code matches a trade code assigned to committee.
- Contract sponsor is the employer.

Note: Employers with contracts in more than one trade or committee can cause Column #3 totals at the Committee or State level to deviate from the summed total of the individual trade or committee rows.

Trade	Total # of Sponsors	Total # of Apprentices	Of Total Apprentices in Column 3, # who are...			
			Minority		Females	
			#	%	#	%
1	2	3	4	5	6	7
<b>Report Total</b>	<b>10</b>	<b>54</b>	<b>3</b>	<b>5.6</b>	<b>2</b>	<b>3.7</b>
Arborist (0340868401801)	10	54	3	5.6	2	3.7